



**MODEL LAW ON IMMIGRATION FOR THE COMMON
MARKET FOR EASTERN AND SOUTHERN
AFRICA(COMESA)**

DRAFT

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Immigration Act Numberof 202.....

GOVERNMENT OF

No.of 202.....

Date of Assent:.....

An act to regulate the entry into and the meaning within (member State) of immigrants and visitors, to provide for the removal from (Member State) of criminals and other specified persons, and to make provisions for matters connected with, or incidental, to the foregoing:

(Insert date)

ENACTED by the Parliament of (Insert name of Member State)

PART 1

Preliminary

1. This Act may be cited as the Immigration Act..... (insert year) and shall come into operation on such date as the Minister may, by statutory instrument appoint.

2. DEFINITIONS AND INTERPRETATION

- 1) In this Act, unless the context indicates otherwise-

'admission' means the entry into the territory of (insert Member State) after being examined at a port of entry on the basis of the authority to do so validly granted by this Act or by an Immigration officer in terms of this Act, and the verb "to admit" has a corresponding meaning.

"Application" means a request in the prescribed form which complies with the requirements and provided the information and documentation which may be prescribed.

'Board' means the Immigration Advisory Board;

'Border' means the national borders of the (Member State) and includes ports of entry, coastlines and the outer margin of territorial waters;

"Border pass" means a prescribed document authorising a person to enter and remain temporarily in, or to re-enter (insert Member State), and includes any class or description of such document;

'Carrier' includes any aircraft, boat, bus, wagon, ship or any motor vehicle such as truck, trailer or other prescribed mode of conveyance of passengers or goods.

'Chartered accountant' means a chartered accountant, who is recognised as such under any law of (Member State) and included an accountant other than a chartered accountant who is recognised as such under any law of the (Member State) and who has been specifically or generally delegated by a chartered accountant to perform any or all activities.

'citizen' has the meaning assigned thereto in the (Member State's law) and **'citizenship'** has a corresponding meaning.

(a) **'COMESA Member State national'** means any national of a Member State of the Common Market.;

'Court' means a court empowered to handle immigration matters in the (a Member State);

'Customary union' means a conjugal relationship according to indigenous law and custom and which is recognised and documented as prescribed in the laws of the Member State.

'Department' means the Department dealing with Immigration Affairs in a Member State;

'Departure' means exiting the (Member State) from a port of entry in compliance with this Act and the verb **'to depart'** has a corresponding meaning;

'Dependant' means:

- (a) The husband or wife of a Member State citizen or non-citizen or resident, unless the parties to the marriage are living apart under a deed of separation or the decree or order of a court;
- (b) An unmarried child or step-child of the national or non-citizen resident under the age of twenty-one (21) years.
- (c) Any unmarried child adopted by a national or non-citizen or resident in a manner recognised by law and who is under the age of 21 years;
- (d) Any other relative who is by reason of age or any infirmity of body or mind wholly dependent on the national or non-citizen or residence for subsistence;

'deportation' means the action or procedure aimed at causing a non-citizen whose stay in a Member State to be declared illegal or an illegal immigrant to leave a (Member State) involuntarily, or under detention in terms of this Act and the verb **'to deport'** has a corresponding meaning;

'Director-General' means the Head of the Immigration Department;

'employer' includes the person contractually bound by an applicable employment contract or, in the case of a juristic person, its Chief Executive Officer or the person or officer exercising the legal authority of the juristic person and has final responsibility in respect of human resource matters of the juristic person;

'Foreign country' means a country other than the (Member State);

'foreign state' means the juristic entity governing a foreign country;

'non-national' means an individual who is not a citizen of a Member State;

'Irregular immigrant' means a non-citizen who is in the (Member State) in contravention of this Act and includes a prohibited person;

'Immediate family' means the husband, wife or children including step children and legally adopted children;

'Immigration officer' means an officer of the Department, or another person having the prescribed requirements appointed as such from time to time by the Department and, for purposes of this Act, included a person employed in or contracted by, the Department who has been authorised by the Department to exercise certain powers and perform certain functions in the name and on behalf of the Department;

'long-term residence' means a period of residence not less than 18 years or as determined by law of the (Member State);

'marriage' means a legally sanctioned conjugal relationship intended to be permanent and concluded under the laws of the (Member State), or under the laws of a foreign country as prescribed from time to time, and includes a customary union;

'master' means the master of a carrier and refers to the person who at any given time is in charge or command of a carrier;

'minister' means the Minister responsible for immigration matters in a Member State;

'national' means a person who:

(a) Is a citizen of a Member State;

(b) or

(c) Is a company or other legal entity constituted in (the Member State) in conformity with the laws thereof and which that State regards as belonging to it, provided that such company or other legal entity has been formed for gainful purposes and has its registered office and central administration, and carries on substantially activity, within the Community and which is substantially owned and effectively controlled by persons mentioned in paragraphs (a) and (b);

‘owner’ means the owner of record and, in the case of a carrier, it includes the character of the carrier and any agent within the (Member State) of the owner or the character;

‘passport’ means an official travel document issued by the government certifying the holders identity and citizenship and entitling such a person to travel under its protection to and from foreign countries containing the prescribed information and characteristics issued:

- (a) Under the law of the specified law of (the Member State);
- (b) On behalf of a foreign state recognised by the Government of the (Member State) to a person who is not a citizen;
- (c) On behalf of any international organisation prescribed from time to time, including regional or sub-regional ones, to a person who is not a citizen; and
- (d) Any other document approved by the Director-General after consultation with the Minister and issued under special circumstances to a person who cannot obtain a document referred to in paragraphs (a) to (c);

‘permanent residence’ means a period of residence that is granted unconditionally as to time or other conditions and terms;

‘port of entry’ means a place designated as such by the government from time to time where a person has to report before he or she may enter or exit a (Member State);

‘premises’ means any building, structure or tent together with the land on which it is situated and the adjoining land used in connection with it and included any land without any building structure or tent and any vehicle, conveyance, or sign;

‘prohibited person’ means any person referred to under schedule 1 of the Act;

‘property’ includes real and personal property;

‘publish’ means issuance by notice in the Government Gazette and, to the extent possible and feasible under circumstances, convey by mail or email to parties or stakeholders who have requested their inclusion or have been included in mailing lists to be maintained by the Department in respect of subject matters in respect of which public input is called for this Act, prescribed advisable or expedient;

‘recognized organization’ means an organization declared by the Minister by Order to be a recognized organization for the purposes of this Act published in the Official Gazette;

‘regulations’ means rules or directives adopted and issued by the Minister after consultation with the Board in terms of the Act and published;

‘Member State’ means the (Member State) of COMESA;

'resident' means a person with regular migration status in a country ;

'status' means the permanent or temporary residence issued to a person in terms of this Act and includes the rights and obligations flowing there from including any term and condition of residence imposed by the Department when issuing any such permits;

'this Act' means this Act, including its schedules, and includes the regulations made pursuant thereto;

'Treaty' means the Treaty Establishing the Common Market for Eastern and Southern Africa;

'spouse' means a person who is party to a marriage solemnised under the laws of a Member State and includes customary law of the Member State;

'visa' means the prescribed endorsement issued upon application on the valid passport of a non-citizen granting such non-citizen the authority to proceed to the (Member State) to report for a prescribed examination to an immigration officer at the port of entry with a view to admission;

'work' means any activity performed by persons of any sex and age to produce goods or to provide services for use by others or for own use.;

PART II

STRUCTURES OF IMMIGRATION CONTROL

3. BASIC PROVISIONS

SECTION 1 – POWERS OF DEPARTMENT

1) Subject to, and for the purposes of, this Act, through its duly authorised officers, the Department may:

- (a) Enter workplaces and inspect employment records for the purposes of this Act;
- (b) Enter and inspect for purposes of this Act any private or public place ;
- (c) Request any sphere of government or organ of State to:
 - i. Take actions or adopt procedures to ensure that the recipients of their services are identified as citizens and residents or non-nationals; and
 - ii. Request that prescribed services, or licenses, or concessions or other actions be subject to proof of status or citizenship;

provided that such requirements shall not prevent the rendering of such services to irregular immigrants when so required by the Constitution or a law;

- (d) request anyone in the (Member State), (who is reasonably) suspected to have entered the country irregularly and or overstayed after entering the country regularly, to identify himself or herself as a citizen or resident, or to produce a permit or visa to be in the (Member State);
- (e) apprehend, detain and or deport any person who has contravened the provisions of this Act;
- (f) subject to the laws of the country, represent the State in any proceedings in a Court in respect of any matter arising out of this Act;
- (g) assist the public prosecution of any offence under this Act;
- (h) enter into agreement with any person, including any department of State, in terms of which the Department will be authorised to make use of any of the facilities, equipment or personnel belonging to, or under the control, or in the employment of such person or department;

- 2) Any other powers as vested in the Ministers may be delegated by the Ministers from time to time under this Act;

SECTION 2 – IMMIGRATION ADVISORY BOARD

4. COMPOSITION OF THE BOARD

- 1) The Immigration Advisory Board is hereby established;
- 2) The Board shall be chaired by a designee of the Minister and consist of-
 - (a) One representative of the Ministry concerned with Trade and Industry;
 - (b) One representative of the Ministry concerned with Labour or manpower affairs;
 - (c) One representative of the Ministry concerned with Tourism;
 - (d) One representative of the Ministry concerned with Finance;
 - (e) One representative of the Ministry concerned with Internal Security;
 - (f) One representative of the Ministry concerned with Revenue Service;
 - (g) One representative of the Ministry concerned with Education;
 - (h) One representative of the Ministry concerned with Foreign Affairs;
 - (i) One representative of the Ministry concerned with Defence;
 - (j) The Director-General;
 - (k) Up to five persons from the civil society and the private sector nominated by national umbrella bodies of the Civil Society or private sector including one Representative of Workers' Organizations and one representative of Employers' Organizations; and
 - (l) Up to four individuals appointed by the Minister on rounds of their expertise in administration, regulatory matters or immigration law, control, adjudication or enforcement.

25. MEETINGS OF THE BOARD

The Board shall meet at least once in a quarter at the invitation of the Chairperson and-

- (a) Shall meet physically or virtually with at least two meetings in a year physically;
- (b) Shall adopt its own rules of Rules of Procedure;
- (c) May invite immigration officers, labour officers and other employees of the Department of Immigration or Labour to attend or participate in its meetings; and

- (d) May appoint committees from its members to assist in the performance of its functions;

26. ELIGIBILITY AND TENURE

- 1) A member of the Board referred to in subsection (20 (k) and (l) of this section shall-
 - (a) Serve for a four-year term, at the expiry of which they shall be eligible for one or more re-appointments, provided that the Minister may elect to fill any vacancy which may occur by appointing a person for the unexpired portion of the term of the member in whose place such person is appointed;
 - (b) At no time-
 - i. be or become an unrehabilitated insolvent;
 - ii. be or have been judicially declared of unsound mind;
 - iii. suffer an infirmity of mind or body preventing him or her from the proper discharge of the duties of his or her office;
 - iv. be convicted by final conviction or sentence of an offence without the option of a fine;
 - v. be or have been a political office bearer; or
 - vi. be or have been removed from an office of trust on account of misconduct involving theft or fraud;
 - (c) Cease to be a member;
 - i. on resignation;
 - ii. if requested by the Minister to resign for good cause;
 - iii. if he or she fails to attend two consecutive meetings of the Board, unless his or her apology has been accepted by the Board; or
 - iv. if he or she becomes a disqualified in terms of this Act; and
 - (d) be paid such remuneration and be entitled to such benefits and allowances as determined from time to time by the Minister after consultation with the Director-General and with the approval of the Minister of finance.
- 2) The Department shall provide the necessary administrative capacity and assistance including secretarial services to the Board;
- 3) The Board may establish committees to carry out its functions on specific thematic areas;
- 4) The Minister may dissolve the Board on such terms and conditions as he or she sees fit, provided that a new Board shall be constituted within 90 calendar days of the dissolution of the previous Board;
- 5) The members of the Board who are not public servants shall be entitled to such remuneration and reimbursements as the Minister may determine from time to time in consultation with the Minister of Finance;

6) Subject to this Act, the Board shall operate and meet as prescribed.

7. FUNCTIONS OF THE BOARD

2.4. The Board shall advise the Minister in respect of-

- (a) The contents of regulations made in terms of this Act;
- (b) The formulation of policy pertaining to immigration matters;
- (c) The formulation of policy pertaining to labour migration;
- (d) The implementation of immigration policy by the relevant department;
- (e) The Implementation of labour migration policy by the relevant department;
- (f) The reviewing of a decision of the relevant department in terms of section 8 if and when requested by the Minister;
- (g) Such other matters relating to this Act on which the Minister may request advice.

**PART III
IMMIGRATION REGULATION AND RULES**

8. IMMIGRATION REGULATIONS

The Minister shall have the power to make regulations called for, or conducive to, the implementation of this Act.

**PART IV
DUE PROCESS**

9. ADJUDICATION AND REVIEW PROCEDURES

- 1) Within 20 days of receiving notification of an order of removal of deportation or a decision adversely affecting the status of a person or a refusal for the grant of such status, a person aggrieved by that decision of the decision may-
 - (a) Apply to the Director-General for a review of that decision, who may reverse or modify it within 10 calendar days failing which the decision shall be deemed to have been confirmed; or
 - (b) Within 20 calendar days of modification or confirmation by the Director-General, if any, to the Minister, who may reverse or modify it within 20 calendar day, failing which the decision shall be deemed to have been confirmed or when such person stands to be deported as a consequence of such decision-
 - i. The Minister may extend such deadline; and
 - ii. At the request of the Department, the Minister may request such person to post a bond to defray his or her deportation costs, if applicable; or
 - (c) Within 20 calendar days of modification, the Minister may request such person to post a bond to defray his or her deportation costs, if applicable; or
- 2) If not appealed in terms of subsection (2), a decision of the Department shall be final, subject to section 37 of this Act;
- 3) Any person adversely affected by a decision of the Department shall be notified in writing of his or her rights under this section and other prescribed matters, and may be deported before the relevant decision is final;
- 4) Notwithstanding subsection (1), as soon as notified to the person concerned in terms of subsection (4), the decision of an immigration officer refusing entry into the (Member State) shall be effective for the purpose of subsection (1), and final for purposes of deportation, but subject to subsections (2) and (3);

**PART V
ENTRY AND DEPARTURE**

10. FORMALITIES FOR ENTRY AND EXIT

- 1) Subject to this Act, no person shall enter the (Member State) at a place other than an officially designated port of entry by the Government;
- 2) A person entering the country shall have in his or her possession a passport or any other official recognised travel document or permit in lieu thereof issued by the relevant authorities;
- 3) A person leaving the country shall appear before an immigration officer at a designated official point of entry and shall-
 - (a) Produce a passport or permit issued by a recognised authority and to surrender any permit which is no longer valid;
 - (b) Make and sign such declaration as may be prescribed; and
 - (c) In consulting or otherwise answer questions relating to his/her identity or departure as may be put to him/her by the immigration officer;
- 4) A non-citizen may only enter the (Member State) by producing to an immigration officer his or her valid passport or any other legal document such as a border pass, e-jeton, temporary travel document or permit in lieu thereof and may only depart as set out in this Act.

**PARTS VI
IMMIGRATION PERMITS**

SECTION 1

11. VISITOR'S PERMIT

- 1) A visitor's permit may be issued by the Department in respect of a non-citizen who-
 - (a) Holds a visa; or
 - (b) Is a citizen of a foreign state prescribed from time to time and provides the financial of other guarantees prescribed from time to time in respect of his or her departure;Provided that such permit-
 - i. cannot exceed months and upon application may be renewed by the Department; or
 - ii. may be issued by the Department upon application for any period not to exceed three years to a non-citizen who has satisfied the department that he or she controls sufficient available financial resources, which may be prescribed from time to time, and is engaged in the (Member State) in-
 - (aa) academic sabbaticals;
 - (bb) voluntary or charitable activities;
 - (cc) research; or
 - (dd) other prescribed activities and cases.
- 2) The holder of a visitor's permit may not conduct work;
- 3) A non-citizen receiving a visitor's permit shall comply with any terms and conditions which may be prescribed from time to time and provide the prescribed deposit to be forfeited to the Department in case of his or her non-compliance with this Act;
- 4) Special financial and other guarantees may be prescribed in respect of the issuance of a visitor's permit to certain classes of non-nationals prescribed from time to time;
- 5) A special visitor's permit may be issued to a non-citizen intending to receive medical treatment in the (Member State) for longer than three months by-
 - (a) the Department, as prescribed by; or
 - (b) the Department through the registrar's office or a designated official of an institution where the non-citizen intends to receive treatment provided that such institution-

- i. has been approved by an is in good standing with the Department;
 - ii. certifies that it has received guarantees to its satisfaction that such non-national's treatment costs will be paid;
 - iii. in the case of a minor, provides the name of a person present in (Member State) who is, or has accepted to act, as such minor's guardian while in 9member State) or certifies that such minor will be accompanied by a parent or guardian to (Member State);
 - iv. undertakes to notify the Department when such nonnational has completed his or her treatment;
- 6) When so requested by, and after consultation with, the Department of health, the Department shall determine an ad hoc fee for the issuance of medical treatment permits in respect of institutions publicly funded or subsidised; and
- 7) A special visitor's permit does not entitle the holder to conduct work.

SECTION 2

12. STUDY PERMIT

- 1) A study permit may be issued to a non-citizen intending to study in the (Member State) for longer than t months by-
- (a) the Department, as prescribed, or, at the option of the applicant;
 - (b) the Department through the registrars office or a designated official of an institution of learning where the non-citizen intends to study, provided that such institution-
 - i. has been approved by and is in good standing with the responsible authority;
 - ii. certifies that it has received guarantees to its satisfaction that such non-national's tuition fees will be paid;
 - iii. has received the prescribed guarantees that such non-citizen will have sufficient means to support himself or herself while in the (Member State);
 - iv. in the case of a minor, provides the name of a person present in (Member State) who is, or has accepted to act, as such minor's guardian while in the (Member State);

- v. undertakes to provide a prescribed periodic certification that such non-citizen is satisfactorily performing his or her curriculum of study; and
 - vi. undertakes to notify the Department when such non-citizen has completed his or her studies or is no longer performing them satisfactorily.
- 2) When so requested by, and after consultation with, the Department of Education, the Department shall determine an ad hoc fee for the issuance of study permits or the non-requirement of such a fee in respect of institutions publicly funded or subsidised.
- 3) A study does not entitle the holder to conduct work, provided that-
- (a) a study permit holder may undertake part-time work for a period not exceeding the prescribed period in the law of a Member State, If the permit holder is attending a higher education institution;
 - (b) the work referred to in paragraph (a) may include temporary or full-time work during the academic vacation periods;
 - (c) the Department may, in appropriate cases, authorise the holder of a study permit to conduct work as practical training in a field related to that of his or her studies;

SECTION 3

13. BUSINESS PERMIT

- 1) A business permit may be issued by the Department to a non-citizen intending to establish, or invest in, a business in a (Member State) in which he or she may be employed, and to the members of such non-citizen's immediate family provided that-
- (a) such non-citizen invests the prescribed financial or capital contribution in such business in accordance with the law of a Member State;
 - (b) the contribution referred to in paragraph (a) be part of the intended book value of such business; and
 - (c) such non-citizen has undertaken to comply with any relevant registration requirement set out in any law administered by the (Member State) Revenue Service;
 - (d) such investor has undertaken to comply with the relevant Investment law of the (Member State).
- 2) The holder of a business permit may conduct work;

- 3) The Department may reduce or waive the capitalization requirements referred to in section (1) (a) for business which are prescribed from time to time to be in the national interest or when so requested by the Department of trade and industry; and A business permit once issued shall allow the holder entry into the Member State for the duration of its validity;

SECTION 4

14. WORK PERMIT

- 1) A general work permit may be issued by the Department to a non-citizen if the prospective employer-
 - (a) Where relevant or appropriate satisfies the Department in the manner prescribed by the law of a Member State that despite diligent search he or she has been unable to employ a person in the (Member State) with qualifications equivalent to those of the applicant;
 - (b) produces certification from the (relevant authority) that the terms and conditions under which he or she intends to employ such non-citizen, including salary and benefits are not inferior to those prevailing in the relevant market segment for citizens and residents and submission of proof that the worker has not been charged any recruitment fees for obtaining the job, taking into account applicable collective bargaining agreements and other applicable standards as recorded by the Ministry responsible for labour, if any, provided that-
 - i. A copy of such certification shall be conveyed to a prescribed office of the Ministry responsible for labour; and
 - ii. Such certification shall lapse if objected to for good cause by such office of the Ministry responsible for Labour within 15 calendar days of receipt.
 - (c) has committed to notify the Department when such non-nationals is not longer employed or is employed in a different capacity or role; and
 - (d) has submitted a certification from the (relevant authority) of the job description and that the position exists and is intended to be filled by such non-national;
- 2) A general work permit contemplated in subsection (2) shall lapse if, within six months of its issuance, and within every year thereafter, its holders fails to submit to the Department certification from his or her employer that he or she is still employed and of the terms and conditions of his or her employment, including the job description;
- 3) Subject to any prescribed requirement, an exceptional skills work permit may be issued by the Department to an individual of exceptional skills or qualifications and to those members of his or her immediate family determined by the Department under the circumstances or by regulation.

SECTION 5

15. RETIRED PERSON PERMIT

- 1) A retired person permit may be issued for a period exceeding three months to a non-citizen who intends to retire in the (Member State), provided that the non-citizen provides proof that such non-citizen has-
 - (a) right to a pension or an irrevocable annuity or retirement account from which will give such non-citizen a prescribed minimum payment for the rest of his or her life from the country of his or her origin; or
 - (b) a minimum prescribed net worth.
- 2) The Department may authorise the holder of a retired person permit to conduct work under terms and conditions as the Department may deem fit to determine under the circumstances.
- 3) A retired person may-
 - (a) allow its holder to sojourn in the (Member State) on a seasonal or continuous basis; and
 - (b) not exceed a four-year period at the expiry of which it may be renewed one or more times, subject to subsection (1).

SECTION 6

PART IV

LONG TERM RESIDENCE PERMIT

SECTION 1

16. ISSUANCE OF LONG TERM RESIDENCE PERMIT

The Department may issue a long-term residence permit to a non-citizen who-

- (a) has been the holder of a work permit in terms of this Act for (prescribed years) and has received an offer for permanent employment, provided that-
 - i. such non-citizen submitted a certification from his or her prospective permanent employer's chartered accountant of the job description and that the position exists and is intended to be filled by such non-citizen; and
 - ii. the ministry responsible for Labour certifies that the terms and conditions of such offer, including salary and benefits, are not discriminatory in relation to

those prevailing in the relevant market segment for citizens and residents, taking into account applicable collective bargaining agreements and other standards.

- (b) Is the spouse of a non-national resident, provided that-
 - i. the Department is satisfied that a legal or good faith spousal relationship exists; and
 - ii. such permit is issued on condition that it shall lapse if at any time within three years from its application the legal or good faith spousal relationship no longer subsists, save for the case of death.
- (c) Is a child of a non-citizen-resident under the age of 21, provided that such permit shall lapse if such non-citizen does not submit an application for its confirmation within two years of his or her having turned 21 years of age.
- (d) Is a child of a legal non-citizen resident; or
- (e) Any other person as may be prescribed by Regulations under this Act.
- (f) Taking into account any prescribed requirement, has demonstrated to the satisfaction of the Department special skills or qualifications, and to these members of such non-national's immediate family determined by the Department under the circumstances or by regulation;
- (g) Intends to establish a business in the (Member State) investing in it and the prescribed financial contribution to be part of the intended book value as certified by a legally certified chartered accountant in accordance with the laws of the Member State, and to the members of such non-national's immediate family, provided that-
 - i. the Department may waive or reduce such capitalisation requirements for businesses prescribed from time to time to be in the national interest or when so requested by the Department of Trade and Industry; and
 - ii. the permit shall lapse if the holder fails to renew such certification within three years of the issuance of the permit, and four years thereafter.
- (h) Intends to retire in the (Member State) provided that a legally certified chartered accountant in accordance with the laws of the Member State acting on behalf of such non-citizen certifies that such national-
 - i. has the right to a pension or an irrevocable annuity or retirement account which will give such non-citizen a prescribed minimum payment for the rest of his or her life; or
 - ii. has a minimum prescribed net worth by the laws of the Member State;

- (i) has provided a certification by a (relevant authority) authority that he or she has prescribed minimum net worth and has paid a prescribed amount to the Department; or
- (j) is an immediate family member.

SECTION 2

18. WITHDRAWAL OF LONG-TERM RESIDENCE

The Department may withdraw a long-term residence permit if its holder-

- (a) has been convicted of any of the offences listed in Appendix 1;
- (b) has subsequent to the grant of the long-term residence permit been convicted of the offences listed in Appendix 1 or has fallen into the category of persons listed in Appendix 1;
- (c) has been absent from the (Member State) for more than months, provided that-
 - i. upon showing good cause and upon prior application the Department may extend this period in specific cases;
 - ii. the time when such holder-
 - (aa) was residing abroad while in the service of the State;
 - (bb) was residing abroad while a representative or employee of a person or association of persons resident or established in (the Member State);
 - (cc) was residing abroad while in the service of an international organisation of which the State is a member;
 - (dd) in the case of the spouse or dependent child of a person referred to in subitem (aa), (bb) or (cc), such spouse or child was residing with such persons; or
 - (ee) in the case of the spouse or dependent child of a person who is a member State citizen, such spouse or child was residing with such person, shall not be computed within such period;
 - iii. the Minister, on recommendation of the Director General may grant an exemption from the requirement of residence in respect of certain residents or class of residents;
 - iv. the period of absence may only be interrupted by an admission and sojourn in the (Member State); and

- v. the requirement of resident in the (Member State) shall not affect any non-citizen to whom exemption has been granted under section 29 (2) (b) as a member of a category of persons, unless such non-citizen previously entered the (Member State) or sojourned therein for the purpose of permanent residence under the authority of such exemption; or
- (d) has not taken up residence in the (Member State) within one year of the issuance of such permit;

SECTION 7

19. ASYLUM PERMIT

The Department may issue an asylum permit to an asylum seeker in a Member State in accordance with the law of the Member State taking into account relevant International Conventions and Regional Commitments on Asylum Seekers.

PART VII CROSS BORDER AND TRANSIT PASSES

SECTION 1

20. CROSS BORDER PASSES

- a) An Immigration Officer may issue a border pass to a citizen who resides around a prescribed area where a Member State and another Country share a border, for the purpose of visiting a prescribed border area of the neighbouring state Frontier workers and members of border communities shall not require a residence.
- b) The Minister shall under a statutory prescribe the area under which the cross-border pass shall be applicable and valid.
- c) Subject to any Regional Integration arrangement to which the Member State is a Party to, the Immigration Officer may issues cross border passes registered cross border traders for the purposes of conducting cross border trade.

SECTION 2

21. TRANSIT PASSES

- a) Subject to relevant provisions in this Act, an Immigration Officer may issue a transit visa authorising a non-citizen or foreigner:
 - i. travelling to a foreign country, to make use of the transit facilities at a port of entry; or

- ii. to travel from a port of entry in the Member State through the Member State to a foreign country.

b). A transit visa may be issued for a period not exceeding (insert prescribed period) within any period of twelve months from the day of first entry into Zambia.

PART VIII

PROHIBITED PERSONS, UNDESIRABLE PERSONS, HUMAN TRAFFICKING AND HUMAN SMUGGLING

SECTION 1

22. PROHIBITED PERSONS

- 1) The non-citizens mentioned under Appendix 1 are prohibited persons and shall not qualify for any class of immigration permit in the Member State;
- 2) Any person whose presence in the Member State is declared in writing by the Minister to be inimical to the public interest of the Member State shall be a prohibited person in relation to the Member State.
- 3) The Minister may declare a person referred to in subsection (1) not to be a prohibited person;

SECTION 2

23. UNDESIRABLE PERSONS

- 1) The non-nationals mentioned under Appendix II may be declared undesirable by the Department as prescribed;
- 2) Upon application from the affected person, the Department may waive any of the grounds of undesirable provided that it reports such decisions to the Minister and the Board, with reasons;

SECTION 3

24. TRAFFICKING IN PERSONS

1. An Immigration Officer may, without a warrant of arrest, arrest and detain any person suspected to be involved in the trafficking of persons and cause that person to be prosecuted by an appropriate authority.
2. The (insert law relating to Human Trafficking) , shall apply in relation to dealing with foreigners who are victims of human trafficking , the making and

effecting of deportation orders in relation to such persons, the effecting of border controls and any other relevant matters.

Section 4.

25. Human Smuggling

1. An Immigration Officer may, without a warrant of arrest, arrest and detain any person suspected to be involved in the human smuggling and cause that person to be prosecuted by an appropriate authority.
2. The (insert law relating to Human Smuggling) , shall apply in relation to dealing with foreigners who are victims of human trafficking , the making and effecting of deportation orders in relation to such persons, the effecting of border controls and any other relevant matters.

PART IX ENFORCEMENT AND MONITORING

SECTION 1.

26. IRREGULAR IMMIGRANTS

- 1) Any irregular immigrant shall depart, unless authorised by the Department to remain in the (Member State) pending his or her application for a status;
- 2) Anyirregular immigrant with irregular status shall be deported after due process of law.

SECTION 2

27. INSPECTORATE

- (a) An inspectorate shall be established through regulations and shall consist of such persons, including immigration officers, as may be determined by the Minister;
- (b) On the recommendation of the Director-General, the Minister shall appoint the head of the inspectorate;
- (c) The inspectorate shall investigate any matter falling within the scope of this Act, subject to the directions of the Minister, and shall in the performance of its functions follow such procedure as may be prescribed by the laws of the Member State;

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- (d) An immigration officer may, for the purposes of this Act-
- (a) At any time before the commencement or in the course of an investigation conduct an inspection in loco;
 - (b) By notice in writing call upon any person who is in possession of or has the custody of a control over anything which in the opinion of the Inspectorate is relevant to the investigation to produce such thing, and the Department may inspect and retain anything so produced for a reasonable time; and
 - (c) By notice in writing call upon any person to appear before the Inspectorate and to give evidence or answer questions relevant to the subject matter of the investigation, provided that any of such notices shall specify the time when and the place where the person to whom it is directed shall appear, be signed by an immigration officer, be served by an immigration officer or by a sheriff by delivering a copy thereof to the person concerned or by leaving it as such person's last known place of residence or business, and shall specify the reason why the article is to be produced or the evidence is to be given.
- (e) In the pursuance of this Act, an immigration officer may obtain a warrant to-
- (a) Enter or search any premises for a person or things or to make inquiries, including the power to-
 - i. Examine or search any thing found in or upon such premises;
 - ii. Request from the person who is in control of such premises or in whose possession or under whose control any thing is when it is found, or who is upon reasonable grounds believed to have information which regard to such thing, an explanation or information; and
 - iii. Make copies of extracts from any such thing found upon or in such premises.
 - (b) Apprehend an irregular immigrant without the right to be in a (Member State subject to section 32 (1); or
 - (c) after having issued a receipt in respect thereof, seize and remove documentation or any other thing which-
 - i. is concerned with or is upon reasonable grounds suspected of being concerned with any matter which is the subject of any investigation in terms of this Act; or
 - ii. contains, or is on reasonable grounds suspected to contain information with regards to any such matter.

Provided that-

(aa) anything so seized shall be returned in good order as soon as possible after the purpose of its seizure has been accomplished; and

(bb) a person from whom a book or document has been taken shall be allowed reasonable access including the right to make copies at his or her expense.

(f) A warrant referred to in subsection (5) shall be issued by a Court of competent jurisdiction in the area where the premises in question are situated, and only if it appears to the Court from information on oath that there are reasonable grounds for believing that a thing mentioned in subsection (5) is upon or in such premises, and shall specify which of the acts mentioned in subsection (5) may be performed thereunder by the person to whom it is issued.

(g) A warrant issued in terms of this section shall be executed by day unless the Court that issues the warrant authorises its execution by night at time which shall be reasonable, and any entry upon or search of any premises in terms of this section shall be conducted with strict regards to decency, order and the rule of law, including-

(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.

(h) A person 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 and in the absence of the person identified in the warrant, attach the warrant to a prominent place on the premises; and

(b) supply such person at his or her request with particulars regarding his or her authority to execute such a warrant.

(i) (a) An immigration officer may, without a warrant, enter upon any premises, other than a private dwelling and exercise the powers referred to in subsection (5) (a) and (c)-

i. If the person who is competent to do so consents to such entry, search, seizure and removal; or

ii. If he or she upon reasonable grounds believes that-

(aa) the required warrant will be issued to him or her in terms of subsection (5) if he or she were to apply for such warrant; and

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

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

10. (a) Any person who may on the authority of a warrant issued in terms of subsection (5), or under the provisions of subsection (9), enter upon and search any premises, may use such force as may be reasonably necessary to overcome resistance to such entry or search; and

(b) No person may enter upon or search any premises unless he or she has audibly demanded access to the premises and has notified the purpose of his or her entry, unless such person is upon reasonable grounds of the opinion that any thing may be destroyed or a person put at risk of bodily harm if such access is first demanded and such purpose is first notified.

11. If, during the execution of a warrant of the conducting of a search in terms of this section, a person claims that a thing found on or in the premises concerned contains privileged information and refuses its inspection or removal, the person executing the warrant or conducting the search shall, if he or she is of the opinion that the thing contains information which is relevant to the investigation and that such information is necessary for the investigation, request a person designated by a Court which has jurisdiction to seize and remove that thing for safe custody until a Court has made a ruling on the question whether the information concerned is privileged or not.

12. A warrant issued in terms of this section may be issued on any day and shall be in force until-

(a) It is executed;

(b) It is cancelled by the person who issued it or, if such person is not available, by a person with similar authority;

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

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

13. In consultation with the Minister and through diplomatic channels, the Department may obtain permission from the (relevant authority) of a foreign country to receive evidence or gather information in or from that country.

14. When exercising powers under this section, an immigration officer shall clearly identify him or herself as such by means of adequate identification.

SECTION 3

28. DEPORTATION AND DETENTION OF ILLEGA MIGRANTS

- 1) Without need for a warrant, an immigration officer may arrest an irregular immigrant falling under Appendix 1, or cause him or her to be arrested and shall irrespective of whether such irregular immigrant is arrested, deport him or her or cause him or her to be deported and may, pending his or her deportation detain him or her or cause him or her to be detained in a manner and at the place under the control or administration of the Department determined by the Director-General;
- 2) In all other cases part from these falling under Appendix 1, an irregular immigrants may be arrested without a search warrant, but-
 - (a) shall be notified in writing of the decision to deport him or her and of his or her right to appeal such decision in terms of the Act;
 - (b) shall be informed upon arrest of immediately thereafter of the rights set out in preceding paragraph, when possible, practicable and available in a language that he or she understands;
 - (c) may not be held in detention for longer than 30 calendar days without a warrant of a court, which for cases falling under Appendix I may on good and reasonable grounds may extend such detention for an adequate period not exceeding 90 calendar days; and
 - (d) shall be held in detention in compliance with minimum prescribed standards protecting his or her dignity and relevant human rights.
- 3) The detention of a person in terms of this Act elsewhere than on a carrier of entry and for purposes other than his or her deportation shall not exceed (prescribed hours) from his or her arrest or the time at which such person was taken into custody for examination or other purposes, provided that if such period expires on a non-court day it shall be extended to four p.m. of the first following court day.
- 4) Any person other than a citizen or resident who having been-
 - (a) Removed from the (Member State) or while being subject to an order issued under a law to leave the (Member State) or while being subject to an order issued under a law to leave the (Member State), returns thereto without lawful authority of fails to comply with such order; or
 - (b) Refused admission, whether before or after the commencement of this Act, has entered the (Member State);

Shall be guilty of an offence and liable to conviction to a fine or to imprisonment for a period not exceeding 12 months and may, if not already in detention, be arrested without warrant and deported under a warrant issued by a Court and,

pending his or her removal, be detained in the manner and at the place determined by the Director-General.

- 5) Any irregular immigrant convicted and sentenced under this Act may be deported before the expiration of his or her sentence and his or her imprisonment shall terminate at that time.
- 6) On the basis of a warrant for the removal or release of a detained irregular immigrant, the person in charge of the prison concerned shall deliver such non-citizen to that immigration officer or police bearing such warrant, and if such non-citizen is not released, he or she shall be deemed to be in lawful custody while in the custody of the immigration officer or police officer bearing such warrant.
- 7) A person at a port of entry who has been notified by an immigration officer that he or she is an irregular immigrant or in respect of whom the immigration officer has made a declaration to the master of the carrier on which such non-citizen arrived that such person is an irregular immigrant shall be detained by the master on such ship and, unless such master is informed by an immigration officer that such person has been found not to be an irregular immigrant, such master shall remove such person from the (Member State), provided that an immigration officer may cause such person to be detained elsewhere than on such other carrier, or be removed in custody from such ship and detain him or her or cause him or her to be detained in the manner and at a place determined by the Director-General.
- 8) The person referred to in the preceding subsection shall, pending removal and while detained as contemplated in that subsection, be deemed to be in the custody of the master of such carrier and not the immigration officer of the Department, and such master shall be liable to pay the cost of the detention and maintenance of such person while so detained if the master knew or should reasonably have known that such person was an illegal non-national, provided that-
 - (a) if such fails to comply with the provisions of that subsection, or if required to pay such costs, such master or the owner of such carrier shall forfeit in respect of every person concerned a sum fixed by the immigration officer, not exceeding an amount prescribed from time to time;
 - (b) the immigration officer may, before such person is removed from such carrier, require the master or the owner of such carrier to deposit a sum sufficient to cover any expenses that may be incurred by the Department in connection with the deportation, detention, maintenance and custody of such person, if there are grounds to believe that the master knew or should reasonably have known that such person was an illegal non-national.
 - (c) If such person is not removed from the (Member State) on the carrier on which he or she was conveyed to the (Member State), except by reason of not being an irregular immigrant, and if the master knew or should have known that such a person was an irregular immigrant, the owner of that carrier shall at the request of an immigration officer convey that person, or have him or her

conveyed, free of charge to the State to a place outside the (Member State), and any person, other than an immigration officer, charged by the Department with the duty of escorting that person to such a place, shall be deemed to be an immigration officer while performing such duty; and

- (d) If the owner of such carrier fails to comply with the provisions of this section, he or she shall forfeit in respect of each such person a sum fixed by the immigration officer, not exceeding an amount prescribed from time to time.
- 9) A person who escapes or attempts to escape from detention imposed under this Act shall be guilty of an offence and may be arrested without a warrant.

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SECTION 4

29. DUTIES AND LIABILITIES OF CARRIERS

- 1) Save for extraordinary circumstances necessitating otherwise, no master shall cause his or her carrier to enter (Member State) by landing or shoring at any place other than a port of entry.
- 2) An immigration officer or other authorised person employed by the Department may-
 - (a) board any carrier which is entering or has entered into any port and for good cause prohibit or regulate disembarkation from, or the offloading of, such carrier in order to ascertain the status or citizenship of its passengers; and
 - (b) request the person in control of a port of entry or any person acting under his or her authority to order the master to moor or anchor his or her carrier in such port at such distance from the shore of landing place or in such position as he or she may direct.
- 3) The master of a carrier entering a port of entry upon demand shall deliver to an immigration officer-
 - (a) a list stating-
 - i. the names of all passengers on board the carrier, classified according to their respective destinations; and
 - ii. such other details prescribed from time to time.
 - (b) a list of stowaways, if any have been found;
 - (c) a list of the crew and all other persons, other than passengers and stowaways, employed, carried or present on the carrier; and
 - (d) a return, under the hand of the medical officer of that carrier or, if there is no such medical officer, under the hand of the master himself or herself, stating-
 - i. any cases of disease, whether infectious or otherwise, which have occurred or are suspected to have occurred upon the voyage;
 - ii. the names of the persons who have suffered or are suffering from such disease;
 - iii. details of any birth or death which occurred upon the voyage between such port and a previous port; and
 - iv. any other prescribed matter or event.

Provided that such immigration officer may-

(aa) exempt from the requirements of this subsection the master of a carrier destined for any other port in the (Member State), subject to compliance with the duty to deliver such lists or return at such port and with any directive such immigration officer may issue to the master; and

(bb) If satisfies that a name should be added to or deleted from any of such lists, authorise such addition or deletion.

- 4) If a carrier arrives at a port of entry with a passenger on board bound for a destination outside the (Member State) who is not on board when the carrier leaves such port and has not been admitted, the master or the power or the owner of that carrier shall forfeit a sum fixed by the immigration officer within a prescribed limit.
- 5) An immigration officer may require the master of a carrier to muster the crew of such carrier on the arrival of such carrier in any port of entry and again before it leaves such port.
- 6) The competent officer of customs at any harbour may refuse to give to the master of any carrier clearance papers to leave that harbour unless he or she has complied with the provisions of this Act and produced a certificate of an immigration officer to that effect.
- 7) A master shall ensure that any non-citizen conveyed to a port of entry for purposes of travelling to a foreign country holds a transit visa if required.

SECTION 5

30. COURTS

- 1) Every competent court is an Immigration Court for the purposes of this Act and shall have jurisdiction on any matter arising from the application of this Act, including, but not limited to-
 - (a) The review of decisions of the Department;
 - (b) Any legal proceedings against the Department; and
 - (c) Any matter concerning status.
- 2) All circumstances permitting the Courts shall use their best endeavour to ensure that any proceedings arising out of the application of Act are dealt with as soon as is reasonably possible.

PART X

DUTIES AND OBLIGATIONS OF EMPLOYERS AND TRAINING INSTITUTIONS AND

SECTION 1.

31. EMPLOYMENT

- 1) No person shall employ-
 - (a) an irregular immigrant;
 - (b) a non-citizen whose status does not authorise him or her to be employed by such a person, or
 - (c) a non-citizen on terms, conditions or in a capacity different from those contemplated in such non-national's status.
- 2) An employer shall ensure that he or she employs no irregular immigrant and shall ascertain the status or citizenship of those whom he or she employs;
- 3) If it is proven, other than by means of the presumption referred to in subsection (5), that a person was employed in violation of subsection (1), it shall be presumed that the employer knew at the time of the employment that such person was among those referred to in subsection (1), unless such employer proves that he or she-
 - (a) Employed such person in good faith; and
 - (b) Complied with subsection (2), provided that a stricter compliance shall be required of any employer who employs more than five employees of has been found guilty of a prior offence under this Act related to this section.
- 4) An employer employing a non-citizen shall-
 - (a) for two years after the termination of such non-national's employment keep the prescribed records relating thereto; and
 - (b) report to the Department-
 - i. The termination of such non-national's employment; and
 - ii. Any breach on the side of the non-citizen of his or her status.
- 5) If an irregular immigrant is found on any premises where a business is conducted, it shall be presumed that such non-citizen was employed by the person who has control over such premises unless evidence to the contrary is adduced.

SECTION 2

32. INSTITUTIONS OF LEARNING

- 1) No learning institution shall knowingly provide training or instruction to-
 - (a) An irregular immigrant;
 - (b) A non-citizen whose status does not authorise him or her to receive such training or instruction by such a person; or

- (c) A non-citizen on terms or conditions or in a capacity different from those contemplated in such non-national's status.
- 2) If an irregular immigrant is found on any premises where instruction or training is provided. It shall be presumed that such non-citizen was receiving instruction or training from, or allowed to receive instruction or training by, the person who has control over such premises, unless prima facie evidence to the contrary is adduced.

PART XI GENERAL PROVISIONS

33. ACCOMODATION

When so requested by an immigration officer of a place police officer any person shall identify himself or herself as a citizen, resident or non-citizen when so requested by an immigration officer or a police officer, and if on reasonable grounds such immigration officer or a police officer is not satisfied that such person is entitled to be in (Member State), such immigration officer or police officer may take such person into custody without a warrant and if necessary detain him or her in a prescribed manner and place until such person's prima facie status or citizenship is ascertained.

34. AIDING AND ABETTING IRREGULAR IMMIGRANTS

- 1) Subject to this Act no person, shall aid, abet, assist, enable or in any manner help-
- (a) an irregular immigrants, or
 - (b) a non-citizen in respect of any matter, conduct or transaction which violates such non-national's status, when applicable;
- including but not limited to-
- i. providing instruction or training to him or her, or allowing him or her to receive instruction or training;
 - ii. issuing to him or her a licence or other authorisation to conduct any business or to carry on any profession or occupation;
 - iii. entering into an agreement with him or her for the conduct of any business or the carrying on of any profession or occupation;
 - iv. conducting any business or carrying on any profession or occupation in cooperation with him or her;
 - v. assisting, enabling or in any manner helping him or her to conduct any business or carry on any profession or occupation;
 - vi. obtaining a licence or other authority for him or her on his or her behalf to conduct any business or carry on any profession or occupation;

- vii. doing anything for him or her on his or her behalf in connection with his or her business or profession or occupation;
 - viii. harbouring him or her which included providing accommodation; or
 - ix. letting of selling or in any manner making available any immovable property in the (Member State) to him or her.
- 2) In any criminal proceedings arising out of this section, it is no defence to aver that the status of the non-citizen concerned, or whether he or she was an irregular immigrant, was unknown to the accused if it is proved that the accused ought reasonably to have known the status of the non-national, or whether he or she was an illegal non-national.

35. OBLIGATION OF NON-CITIZENS

A non-citizen shall-

- (a) Abide by the terms and conditions of his or her status, including any terms and conditions attached to the relevant permit by the Department upon its issuance, extension or renewal; and
- (b) Depart upon expiry of his or her status.

36. ORGANS OF STATE

When possible, any organ of State shall endeavour to ascertain the status or citizenship of the persons receiving its services and shall report to the Department any illegal non-national, or any person whose status or citizenship could not be ascertained, advising through public notices or directly the person concerned of such reporting practice, provided that such requirement shall not prevent the rendering of services to which irregular immigrants and non-nationals are entitled under the Constitution or any law, including the law of contract.

37. OTHER INSTITUTIONS

Prescribed institutions or persons other than organs of the State may be required by regulation to endeavour to ascertain the status or citizenship of the persons with whom they enter into commercial transactions, as prescribed, and shall report to the Department any illegal non-migrant, or any person whose status or citizenship could not be ascertained, provided that such requirement shall not prevent the rendering of services or performance to which irregular immigrants are entitled under the

Constitution or any law or any International Convention on Migrants, including the law of contract.

SECTION 44 – MISCELLENEOUS

38. NON-NATIONALS ERRONEOUSLY ALLOWED TO ENTER THE (MEMBER STATE)

No irregular immigrant shall be exempt from a provision of this Act or be allowed to sojourn in the (Member State) on the grounds that he or she was not informed that he or she could not enter or sojourn in the (Member State) or that he or she was admitted or allowed to remain in the (Member State) through error or misrepresentation, or because his or her being an irregular immigrant was discovered.

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PART XII

SECTION 1. – GENERAL IMMIGRATION OFFENCES AND PENALTIES

39. The following shall be offences under this Act liable on conviction to a fine or to imprisonment:

- 1) anyone who enters or remains in the (Member State) in contravention of this Act shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding(insert applicable period);
- 2) any illegal migrant who fails to depart when so ordered by the Department. anyone who knowingly assists a person to enter the (Member State) in contravention of this Act shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding(insert applicable period.
- 3) anyone who knowingly employs an irregular immigrant or non-citizen in violation of this Act shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding one year, provided that such person's second conviction of such an offence shall be punishable by imprisonment not exceeding two years of a fine, and the third or subsequent convictions of such offences by imprisonment not exceeding three years without the option of a fine.
- 4) anyone who intentionally facilitates an irregular immigrant to receive public services to which such irregular immigrant is not entitled shall be guilty of an offence and liable on conviction to a fine.
- 5) any citizen failing to comply with one of the duties or obligation set out under this Act shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding (insert prescribed period of imprisonment here).
- 6) Anyone participating in a conspiracy of two or more persons to conduct an activity intended to violate this Act shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding four years, provided that if part of such activity is conducted or intended to be conducted in a foreign country the offence shall be punishable by imprisonment not exceeding(insert period of imprisonment) without the option of a fine.
- 7) Anyone who wilfully or through gross negligence produces a false certification contemplated by this Act shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding (insert period of imprisonment here) and shall be suspended from the relevant professional association for a period not exceeding (insert applicable period here) .

Anyone, who without lawful authority, produces a document purporting to be a document issued or administered by the Department shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding (insert applicable period here)

- 8) Anyone who through offers of financial or other consideration or threats compels or induces an officer to contravene this Act or to breach such officer's duties shall be guilty of an offence and liable on conviction-
 - (a) To a fine or to imprisonment not exceeding (insert applicable period); or
 - (b) If subsequently such officer in fact contravenes this Act or breaches his or her duties, to a fine or to imprisonment not exceeding (insert applicable period).

- 9) Anyone guilty of the offence contemplated in section 32 (10) shall be liable on conviction to a fine or to imprisonment not exceeding (insert applicable period)

- 10) A court may make an order as to costs in favour of the Department to the extent necessary to defray the costs referred to in section (insert applicable provision) against-
 - (a) any irregular immigrant referred to in subsection (insert applicable subsection);
 - (b) any person who contravened section (insert applicable article);
 - (c) any person who conveyed into the (Member State) an irregular immigrant or a non-citizen without the required transit visa; or
 - (d) any person who committed an offence contemplated in subsections(insert applicable articles), which order shall have the effect of a civil judgment of that court.

SECTION 2

40. ADMINISTRATIVE OFFENCES

- 1) Any non-citizen who leaves (the Member State) after the expiry of his or her permit shall be liable to an administrative fine of a prescribed amount not exceeding..... (insert applicable amount), which fine shall be imposed by the Department on detection of the overstay and exacted when such non-citizen is admitted or makes an application with the Department.

- 2) Anyone who through negligence produces an incorrect certification contemplated by this Act shall be liable to an administrative fine of a prescribed amount not exceeding(insert applicable amount), which fine shall be imposed by the Department;

- 3) Any owner or master of a carrier who through negligence contravenes the provisions of section(insert applicable article) shall be liable to an

administrative fine of a prescribed amount not exceeding(insert applicable amount), which fine shall be imposed by the Department.

SECTION 48 – INTERNATIONAL CONVENTIONS AND REGIONAL AGREEMENTS ON MIGRATION

- 1) The Member State shall implement this ACT in relation to commitments that the (Member States) have undertaken at the international or regional levels following the signing and ratification of international legal instruments in relation to this Immigration Act such as conventions and protocols.
- 2) The Minister shall ensure that all international legal instruments the Member State is a party to which are related to this Immigration Act are domesticated at the national level for effective implementation.
- 3) Minister through a statutory instrument shall establish a National monitoring Committee (NMC) for the implementation of International and Regional commitments on migrants that the Member State has undertaken at the international or regional levels.
- 4) The composition of the National Monitoring Committee shall include representatives from the public sector, the private sector and the civil society (including workers' and employers' organizations) to ensure a **“whole society approach”** on one hand and also all government departments involved with migration issues to ensure a **“whole government approach”** .

APPENDIX I

FIRST SCHEDULE

(Sections (insert applicable articles))

PROHIBITED IMMIGRANTS

1. Persons who are immediate charges on public funds.
2. Persons suffering from communication or infectious diseases within the meaning of any regulations relating to such diseases made under the relevant (health Services Law).
3. Persons whose conduct offends public morality.
4. Persons who-
 - (a) Are or have been at any time engaged or reasonably suspected of being likely to engage in the unlawful giving or using, the offering or exposing for sale or buying of, of the trading or trafficking in any drugs or human trafficking; or
 - (b) Have been convicted of an offence under any enactment relating to human trafficking dangerous or narcotic drugs other than persons referred to in paragraph 5 who have been convicted of offences only of the possession of cannabis, the amount of which was less than trafficable quantity.
5. Persons who-
 - (a) Have been convicted of, or admit to having committed, a criminal offence which, if committed in (member state), is punishable on indictment;
 - (b) Knowingly or for profit, aid, encourage or procure other persons who are not citizens of (the member state) to enter (the member state) illegally;
 - (c) Are stowaways or seek to enter (the member state) illegally.
6. Persons who are or have been at any time members of groups or adherents or advocates of:
 - (a) The overthrow by force of violence of the Government of (the member state) or any other country of all forms of law;
 - (b) The abolition of organised government;
 - (c) The assassination of any person or the unlawful destruction of property;

- (d) Genocide, terrorism, murder, torture, drug trafficking, money laundering or kidnapping; and
 - (e) A to an association or organization advocating the practice of racial hatred or social violence;
7. Persons who are or have been members of or affiliated to any organisation which entertains or teaches any doctrines or practice specified in sub-paragraphs (a) to (c) or paragraph 6;
 8. Persons who have been convicted of the offences of genocide, terrorism, murder, torture, drug trafficking, money laundering or kidnapping or in respect of whom, there are reasonable grounds for believing they have financed or facilitated any such acts;
 9. Anyone who is or has been a member of or adherent to an organisation or association utilising crime or terrorism to pursue its ends;
 10. Persons in respect of whom there are reasonable grounds for believing that they are likely to engage in espionage, sabotage or other subversive activity directed against detrimental to the security of (the member state);
 11. Persons against whom deportation orders have been made;
 12. Persons seeking to enter (the member state) who are not in possession of a passport;
 13. Any dependant accompanying a person who has been prohibited from entering, refused entry into or deported from (the member state).

APPENDIX II

SECOND SCHEDULE

(Sections (insert applicable articles))

UNDESIRABLE IMMIGRANTS

1. Anyone who is likely to become a public charge;
2. Anyone identified as such by the Minister after consultation with the Board, or in the case of urgency, by the Minister who, in such cases, shall inform the Board as soon as practicable;
3. Anyone who has been judicially declared incompetent;
4. An unrehabilitated insolvent;
5. Anyone who is a fugitive from justice; and
6. Anyone with previous criminal convictions without the option of a fine for conduct which would be an offence in (the Member State). With the exclusion of certain prescribed offences.