

REPUBLIC OF SOUTH AFRICA
REPUBLIK VAN SUID-AFRIKA

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Vol. 615 Cape Town, 27 September 2016 **No. 40302**
Kaapstad,

THE PRESIDENCY

No. 1158 27 September 2016

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

Act No. 8 of 2016: Immigration Amendment Act, 2016

IHHOVISI LIKAMONGAMELI

No. 1158 27 September 2016

Ngaloku kwentiwa satiso sekutsi uMengameli uwuvumile lomTsetfo lolandzelako, lekungumTsetfo lokhishwako lapha kutsi watiwe ngumphakatsi wonkhe:—

No. 8 wa 2016: UmTsetfoso Wekuchibiyela Kungena Nekuphuma Kuleli, 2016

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.

(English text signed by the President)
(Assented to 26 September 2016)

ACT

To amend the Immigration Act, 2002, so as to provide for an adequate sanction for foreigners who have overstayed in the Republic beyond the expiry date on their visa; and to provide for matters connected therewith.

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

Amendment of section 32 of Act 13 of 2002, as amended by section 33 of Act 19 of 2004

1. Section 32 of the Immigration Act, 2002 (Act No. 13 of 2002) (hereinafter referred to as “the principal Act”), is hereby amended by the insertion after subsection (1) of the following subsections: 5

“(1A) Foreigners who are illegal by virtue of having overstayed, as prescribed, do not qualify for a port of entry visa, a visa, admission into the Republic or a permanent residence permit during the prescribed period. 10

(1B) Upon application, as prescribed, from outside the Republic by the illegal foreigner contemplated in subsection (1A), the Director-General may waive the disqualification contemplated in subsection (1A) where exceptional circumstances, as prescribed, exist.”. 10

Amendment of section 50 of Act 13 of 2002, as amended by sections 46 and 47 of Act 19 of 2004 and section 25 of Act 13 of 2011 15

2. Section 50 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Any foreigner who leaves the Republic after the expiry of his or her visa shall be dealt with in terms of section [30(1)(h)] 32(1A).”. 20

Short title and commencement

3. This Act is called the Immigration Amendment Act, 2016, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

EMANOTSI JIKELELE EKUCHAZA:

[] Emagama labhalwe ngalokugcamile lakubakaki labasikwele akhombisa lokukhishiwe kulemitsetfo lekhona.

_____ Emagama ladvwetjelwe ngemugca locondzile akhomba loko lokufakiwe kulemitsetfo lekhona.

(English text signed by the President)
(Assented to 26 September 2016)

UMTSETFO

Kuchibiyela Umtsetfo Wekungena Nekuphuma Kuleli, 2002, kute kutsi banikwe tinhlawulo letanele labo labachamuka kulamanye emave labahleti lapha eRiphabhulikhi bate bengcelwa sikhatsi lebebancunyelwe sona ngemva kwekuphelelwa sikhatsi kwemavisa abo; kanye netindzaba letiphatselene naloko.

UTAWUMISWA yiPhalamende yeRiphabhulikhi yaseNingizimu Afrika, ngalendlela:—

Kuchitjiyelwa kwesigaba se-32 seMtsetfo we-13 wanga 2002, njengoba uchitjiyelwe ngesigaba se-33 seMtsetfo we-19 wanga 2004

1. Sigaba se-32 seMtsetfo Wekungena Nekuphuma Kuleli, wa-2002 (Umtsetfo Nom. 13 wanga 2002), (lapha lobitwa ngekutsi “nguMtsetfo lomkhulu”), uyachitjiyelwa ngekufakwa ngemva kwesigatjana se-(1) kwaletigatjana letilandzelako:

“(1A) Bantfu bakulamanye emave labangekho emtsetfweni ngenca yekuhlala bengcelwe sikhatsi labancunyelwe sona, njengaloku kuncunyiwe, abakafanelwa kutfola ivisa yekungena nekuphuma, ivisa, kwemukelwa lapha eRiphabhulikhi nome imvume yekuhlala siphelane ngesikhatsi lesincunyiwe. 10

(1B) Nakafaka sicelo, njengaloku kuncunyiwe, ngaphandle kweRiphabhulikhi umuntfu wangaphandle longekho emtsetfweni njengaloku kushiwo kusigatjana se-(1A), Umcondzisi Jikelele angakuyekela lokungafaneleki lokushiwo kusigatjana se-(1A) nangabe kunetimo letehlukile, letikhona njengaloku kuncunyiwe.”. 15

Kuchitjiyelwa kwesigaba se-50 seMtsetfo we-13 wanga 2002, njengaloku sichibiyela tigaba te-46 ne 47 seMtsetfo we-19 wanga 2004 kanye nesigaba se-25 seMtsetfo we-13 wanga 2011

2. Sigaba se-50 seMtsetfo lomkhulu siyachitjiyelwa ngekufaka esikhundleni sesigatjana (1) lesigatjana lesilandzelako: 20

“(1) Noma ngabe ngumuphi umuntfu wakulelinye live lophuma lapha eRiphabhulikhi ahambe emva kwekutsi ivisa yakhe iphelelwe sikhatsi kutawubukwana naye ngekulandzela sigaba se-[30(1)(h)] 32(1A).”.

Sihloko lesifishane nekucala kusebenta

3. LoMtsetfo ubitwa ngekutsi nguMtsetfo Wekuchibiyela Kungena Nekuphuma Kuleli, 2016, futsi utawucala kusebenta ngelusuku lolutawuncunywana nguMengameli ngesimemetelo ku*Gazethi*. 25