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Government Notice

OFFICE OF THE PRIME MINISTER

No. 80

1993

PROMULGATION OF ACT OF THE NATIONAL ASSEMBLY

The following Act which has been passed by the National Assembly and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 4 of 1993: Departure From Namibia Regulation Amendment Act, 1993.

**DEPARTURE FROM NAMIBIA
REGULATION AMENDMENT ACT, 1993**

EXPLANATORY NOTE:

- _____ Words underlined with solid line indicate insertions in existing enactments.
- [] Words in bold type in square brackets indicate omissions from existing enactments.

ACT

To amend the Departure from the Union Regulation Act, 1955, so as to adjust its provisions in view of the independence of Namibia; to delete or replace certain obsolete definitions; to provide for the departure from Namibia of persons under the age of 16 years who do not hold passports and the notification of departure of non-citizens in case of ships; and to provide for matters incidental thereto.

(Signed by the President on 23 July 1993)

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

Amendment of section 1 of Act 34 of 1955, as amended by section 8 of Act 61 of 1967 and section 9 of Act 49 of 1984.

1. Section 1 of the Departure from the Union Regulation Act, 1955 (hereinafter referred to as the principal Act), is hereby amended -

- (a) by the insertion before the definition of "passport" of the following definition:

" 'Minister' means the Minister of Home Affairs;";

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

" 'passport' means any passport or other travel document of identity issued -

- (a) to a person on behalf of the Government of Namibia;

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- (b) on behalf of the government of any country recognized by the Government of Namibia, to a person who is a citizen of the country concerned, but not also a Namibian citizen;
- (c) on behalf of any international organization of which Namibia is a member, to a person who is not a Namibian citizen,

and which 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 such person is attached in which all the features or his or her face are clearly and correctly depicted;”;

- (c) by the insertion after the definition of “passport” of the following definition:

“ ‘Permanent Secretary’ means the Permanent Secretary: Home Affairs;”;

- (d) by the substitution for the definition of “port” of the following definition:

“ ‘port’ means -

- (a) any place on the coast of Namibia;
- (b) any railway station or place in Namibia at or near any of the borders thereof; or
- (c) any airport or aerodrome in Namibia,

where an immigration officer is stationed.”;

and

- (e) by the deletion of the definition of “Union”.

Substitution of section 2 of Act 34 of 1955, as amended by section 64 of Act 69 of 1962 and substituted by section 9 of Act 61 of 1967, section 1 of Act 7 of 1979 and amended by section 10 of Act 49 of 1984.

2. The following section is hereby substituted for section 2 of the principal Act:

“Prohibition of departure from Namibia without passport or permit or at a place other than a port.

2. No person shall leave Namibia for the purpose of proceeding to another country -

- (a) unless such person is, at the time when he or she leaves Namibia, in possession of a valid passport or a permit; or

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- (b) unless, if such person 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 Namibia or a government recognized by the Government of Namibia; and
- (c) except at a port where such person shall appear before an immigration officer as defined in section 1 of the Immigration Control Act, 1993, unless such person's passport or permit bears an endorsement, or he or she is in possession of a document issued to him or her by a person authorized thereto by the Minister or such an immigration officer, to leave Namibia at a place other than a port and for such purposes and during such period as may be set forth in that endorsement or document."

Amendment of section 6 of Act 34 of 1955, as amended by section 64 of Act 69 of 1962 and substituted by section 8 of Act 23 of 1964 and section 4 of Act 7 of 1979.

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

"(b) for all purposes become a prohibited **[person]** immigrant within the meaning of the **[Admission of Persons to Namibia Regulation Act, 1972 (Act No. 59 of 1972)]** Immigration Control Act, 1993, in **[the Union]** Namibia with effect from the time he or she left **[the Union]** Namibia."

Insertion of section 6A in Act 34 of 1955.

4. The following section is hereby inserted in the principal Act after section 6:

"Notification of departure of non-citizens in case of ships.

6A. (1) The master of any ship embarking passengers for a destination outside Namibia, at any port in Namibia, shall furnish to an immigration

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officer, in such manner as may be determined by the Minister, a return giving the particulars so determined with respect to any passenger who is not a Namibian citizen, and every passenger shall upon demand furnish to the master of the ship any information required by him or her for the purposes of such return.

(2) Every person departing from Namibia shall furnish to such immigration officer and in such manner as may be so determined a return giving the particulars so determined with respect to himself or herself."

Amendment of section 8 of Act 34 of 1955, as amended by section 11 of Act 49 of 1984.

5. Section 8 of the principal Act is hereby amended -

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

"(c) in the case of a failure to comply with a notice under subsection (5) of section 5, or of a contravention of section 6A or failure to comply with that section, to a fine not exceeding [R600] R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.";

(b) by the substitution for subsection (2) of the following subsection:

"(2) The registrar or clerk of any court convicting any air carrier of a contravention of section [three] 3 shall within fourteen days after such conviction furnish the [**Secretary for Transport**] Permanent Secretary: Works, Transport and Communication with full particulars relating to such conviction."; and

(c) by the deletion of subsection 4.

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Amendment of section 9 of Act 34 of 1955, as substituted by section 12 of Act 61 of 1967 and amended by section 12 of Act 49 of 1984.

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

“(b) is a passenger on board any ship calling at a [Union] Namibian port.”.

Repeal of section 10 of Act 34 of 1955.

7. Section 10 of the principal Act is hereby repealed.

Substitution of certain expressions in Act 34 of 1955.

8. The principal Act is hereby amended -

(a) by the substitution for the expression “the Union”, wherever it occurs, of the word “Namibia”;

(b) by the substitution for the expressions “Minister of Internal Affairs” and “said Minister”, wherever they occur, of the word “Minister”; and

(c) by the substitution for the expressions “Secretary for the Interior” and “said Secretary”, wherever they occur, of the expression “Permanent Secretary”.

Substitution of long title of Act 34 of 1955.

9. The following long title is hereby substituted for the long title of the principal Act:

“To regulate the departure of persons from [the Union] Namibia and to provide for matters incidental thereto.”.

Substitution of section 11 of Act 34 of 1955.

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

“Short title.

11. This Act shall be called the Departure from [the Union] Namibia Regulation Act, 1955.”.

Transitional provision.

11. Anything done before the commencement of this Act under a provision of the principal Act shall be deemed to have been done under any such provision, as amended by this Act.

Short title.

12. This Act shall be called the Departure from Namibia Regulation Amendment Act, 1993, and shall come into operation on a date to be determined by the Minister by notice in the *Gazette*.