

Passports

2.(1) A passport shall—

- (a) be machine readable;
- (b) contain the following information relating to the holder:
 - (i) full names and surname;
 - (ii) date and place of birth;
 - (iii) a photograph clearly and correctly depicting his or her facial features;
 - (iv) gender; and
 - (v) nationality;
- (c) contain the following information relating to the passport itself:
 - (i) travel document type;
 - (ii) travel document number;
 - (iii) name of the issuing authority;
 - (iv) place of issue;
 - (v) date on which it was issued; and
 - (vi) expiry date thereof; and
- (d) have at least two unused pages when presented for purposes of endorsing a port of entry visa, visa, permanent residence permit or entry or departure stamp.

(2) Notwithstanding the provisions of subregulation (1)(a), a foreigner may be admitted into or depart from the Republic with a non-machine readable passport: Provided that—

- (a) he or she is from a foreign state that is issuing machine readable passports and has not completely phased out the non-machine readable passports; and
- (b) his or her passport was issued after 24 November 2005 and its date of expiry is before 24 November 2015.

(3) The period of validity of a passport contemplated in section 9(4)(a) of the Act shall not be less than 30 days after the foreigner's intended date of departure from the Republic.

(4) The international, regional or sub-regional organisations contemplated in the definition of passport in section 1(1) of the Act, are—

- (a) the United Nations, excluding its agencies, except for the United Nations High Commissioner for Refugees;
- (b) the African Union;
- (c) the European Union;
- (d) the Southern African Development Community; and
- (e) the African Development Bank.

(5) An applicant contemplated in subregulation (1) who has been granted a visa or permanent residence permit on the basis of the relationship must immediately inform the Director-General when his or her relationship ceases to exist.

(6) The Director-General may, upon receipt of the information contemplated in subregulation (5), withdraw the visa or permanent residence permit issued on the basis of the existence of a permanent homosexual or heterosexual relationship.

(7) Whenever it appears to the Director-General that a visa or permanent residence permit was acquired through error, misrepresentation or fraud, he or she shall withdraw the visa or permanent residence permit and, where applicable, cause criminal charges to be laid against all parties implicated in the misrepresentation or fraud.

Appointment of individual persons to Board by Minister

4.(1) The Minister shall invite members of the public to nominate persons contemplated in section 4(2)(a)(v) of the Act for appointment to the Board.

(2) The invitation contemplated in subregulation (1) shall be advertised nationally.

(3) Nominations shall be submitted in writing and shall include—

- (a) the full names, surname and contact details of the persons being nominated;
- (b) a brief *curriculum vitae* of the persons being nominated; and
- (c) a signed statement of acceptance of such nomination by the person being nominated.

(4) The Minister shall consider all nominations received and appoint five suitable persons to the Board within 30 days after the closing date for the submission of nominations.

Operations of Board

5.(1) The Chairperson of the Board shall convene the meetings of the Board.

(2) The Board shall adopt rules to govern the procedure at its meetings.

Admission and departure

6.(1) An application for exemption contemplated in section 9(3)(b) of the Act shall be made on Form 3 illustrated in Annexure A.

(2) An examination contemplated in section 9(3)(d) of the Act shall take place when a person presents himself or herself to an immigration officer.

(3) A person contemplated in subregulation (2) shall—

- (a) satisfy the immigration officer that he or she—

- (i) is not an illegal foreigner by producing a valid passport and port of entry visa, if applicable;
 - (ii) is not a prohibited person by proving that he or she complies with the provisions of section 29 of the Act;
 - (iii) if previously declared an undesirable person, has complied with section 30(2) of the Act; and
 - (iv) is not in contravention of the Act by producing a visa commensurate with the activities to be undertaken by him or her in the Republic;
- (b) if entering the Republic for purposes of a visa contemplated in section 11(1)(a) of the Act, provide a residential address of the intended place of stay within the Republic and the business, residential or physical address of his or her host in the Republic, and undertake to report any change of his or her address, and that of his or her host in the Republic, at the nearest Office of the Department within 48 hours of any change of such address or addresses;
- (c) provide proof of settlement, in the form of a receipt, of any outstanding administrative fine imposed under section 50(1) of the Act prior to its amendment by section 25(a) of the Immigration Amendment Act, 2011 (Act No. 13 of 2011);
- (d) submit to the immigration officer Form 4 illustrated in Annexure A; and
- (e) subject himself or herself to biometric verification prior to admission into the Republic and upon departure from the Republic.
- (4) If an immigration officer is not satisfied with the information submitted in accordance with subregulation (3)(d), he or she may require of that person to either complete the form once again, or to make a declaration on Form 5 illustrated in Annexure A.
- (5) If a person is unable to complete the form contemplated in subregulation 3(d) or the declaration contemplated in subregulation (4), the immigration officer shall, if necessary—
- (a) question him or her with the assistance of an interpreter;
 - (b) complete the mentioned form or declaration or cause it to be completed; and
 - (c) require that person to sign that form or declaration or to affix his or her left thumb print thereto.
- (6) An immigration officer who has not been satisfied as contemplated in subregulation (3)(a), may interview that person and shall record the general contents of that interview on Form 6 illustrated in Annexure A.
- (7) An immigration officer may, if there is reason to suspect that any person is infected with or is the carrier of any of the diseases or viruses contemplated in regulation 26(1), refer such

person seeking admission into the Republic to a port health officer at the port of entry and, after consultation with the port health officer, decide whether or not to admit such person seeking admission or hold him or her in quarantine.

(8) An immigration officer shall not admit into the Republic any person unless he or she is satisfied that such person poses no risk or intends no harm to the Republic or citizens of the Republic.

(9) When examining a person before his or her departure from the Republic, an immigration officer shall ensure that that person is not—

- (a) a fugitive from justice; or
- (b) the subject of a court order that orders the Department to prevent his or her departure.

(10) Any child who is in alternative care as defined in the Children's Act, 2005 (Act No. 38 of 2005) shall, before departing from the Republic, produce a certified copy of an authorisation letter from the Provincial Head of the Department of Social Development where the child resides as contemplated in section 169 of the Children's Act.

(11) An immigration officer shall refuse any person contemplated in subregulation (9) or who does not comply with subregulation (10), to depart from the Republic.

(12)(a) Where parents are travelling with a child, such parents must produce an unabridged birth certificate of the child reflecting the particulars of the parents of the child.

(b) In the case of one parent travelling with a child, he or she must produce an unabridged birth certificate and—

- (i) consent in the form of an affidavit from the other parent registered as a parent on the birth certificate of the child authorising him or her to enter into or depart from the Republic with the child he or she is travelling with;
- (ii) a court order granting full parental responsibilities and rights or legal guardianship in respect of the child, if he or she is the parent or legal guardian of the child; or
- (iii) where applicable, a death certificate of the other parent registered as a parent of the child on the birth certificate;

Provided that the Director-General may, where the parents of the child are both deceased and the child is travelling with a relative or another person related to him or her or his or her parents, approve such a person to enter into or depart from the Republic with such a child.

(c) Where a person is travelling with a child who is not his or her biological child, he or she must produce—

- (i) a copy of the unabridged birth certificate of the child;
- (ii) an affidavit from the parents or legal guardian of the child confirming that he or she has permission to travel with the child;
- (iii) copies of the identity documents or passports of the parents or legal guardian of the child; and
- (iv) the contact details of the parents or legal guardian of the child,

Provided that the Director-General may, where the parents of the child are both deceased and the child is travelling with a relative or another person related to him or her or his or her parents, approve such a person to enter into or depart from the Republic with such a child.

(d) Any unaccompanied minor shall produce to the immigration officer—

- (i) proof of consent from one of or both his or her parents or legal guardian, as the case may be, in the form of a letter or affidavit for the child to travel into or depart from the Republic: Provided that in the case where one parent provides proof of consent, that parent must also provide a copy of a court order issued to him or her in terms of which he or she has been granted full parental responsibilities and rights in respect of the child;
- (ii) a letter from the person who is to receive the child in the Republic, containing his or her residential address and contact details in the Republic where the child will be residing;
- (iii) a copy of the identity document or valid passport and visa or permanent residence permit of the person who is to receive the child in the Republic; and
- (iv) the contact details of the parents or legal guardian of the child.

(13) Any person who destroyed a passport, or presented a passport that is confirmed to be false or fraudulently altered, shall be refused entry and an immigration officer shall—

- (a) confirm such refusal on Form 7A illustrated in Annexure A;
- (b) confiscate such passport; and
- (c) cause such person to be returned to his or her point of embarkation.

(14) The passport confiscated as contemplated in subregulation (13)(b) shall, together with Form 7B illustrated in Annexure A, be handed to the purported issuing authority's embassy, high commission or representative in the Republic.

(15) Any person found in the Republic in possession of a fraudulent, false or counterfeit passport shall be referred for detention or prosecution on Form 7C illustrated in Annexure A.