

# The Immigration Act, 1964

Publisher [National Legislative Bodies](#)

Publication Date 1 February 1965

Reference SWZ-115

Cite as *The Immigration Act, 1964* [], 1 February 1965, available at:  
<http://www.refworld.org/docid/3ae6b50b3.html> [accessed 17 December 2013]

Comments This is the official text. This document only provides selected provisions.

This is not a UNHCR publication. UNHCR is not responsible for, nor does it necessarily endorse, its content. Any views expressed are solely those of the author or publisher and do not necessarily reflect those of UNHCR, the United Nations or its Member States.

Date of entry into force:01 February 1965

## Part I - PRELIMINARY

### 2. Interpretation

In this Act, unless the context otherwise requires -

"alien" means a person who is not -

(a)under an enactment in force -

(i)in the United Kingdom, a citizen of the United Kingdom and Colonies or a British subject without citizenship; or

(ii)in any other self-governing country of the Commonwealth, a citizen of that country; or

(b)a member of a class of person whom Her Britannic Majesty has, by Order in Council made under the British Nationality Act, 1948, of the United Kingdom, declared to be a British Protected Person; or

(c)a citizen of the Republic of Ireland; or

(d)a citizen of Swaziland;

"approved form" means a form approved under section 30;

"Board" means the Immigrants Selection Board established by section 21;

"career consular officer" means a career consular officer received as such by the Government of Swaziland;

"Chairman" means the Chairman of the Board;

"Chief Immigration Officer" means the person appointed, under section 4(1), as Chief Immigration Officer;

"Citizen of Swaziland" means a citizen of Swaziland by law, registered or naturalised as provided in the Constitution;

"diplomatic agent" means the public minister of any other sovereign or state authorised and received as such by the Minister on behalf of His Majesty and who is the chief in charge of the mission or legation of such sovereign or state in Swaziland, or any member of his diplomatic staff acting, during his absence, in his stead;

"diplomatic staff" means the official personnel who take part in the diplomatic work of a legation and includes counsellors, secretaries, attachés, archivists, stenographers, typists, porters, medical attendants and chaplains, provided that such persons are attached to and employed exclusively for the purposes of any legation;

"hotel keeper" means a keeper or person having the management of a place used as an hotel, boarding house, lodging house, or other place wherein persons receive sleeping accommodation for money, and includes such other person as the Minister may in writing designate as a hotel keeper for the purpose of this Act;

"immigration officer" means a person appointed, under section 4(1), as Chief Immigration Officer or other immigration officer;

"judicial officer" means a person appointed or entitled to hold a magistrate's court of the First Class or of the Second Class;

"member" means a member of the Board;

"Minister" means the Deputy Prime Minister;

"non-resident" means a person who is not mentioned in section 9 or if mentioned in section 9 is not in possession of a permit;

"police officer" includes a member, on duty, of the Swaziland police force reserve established under the Police Reserve Act (No. 62 of 1962);

"prison" means a place declared to be a prison by a law relating to prisons or deemed, by that law, to be a prison;

"prohibited immigrant" means a person who is a prohibited immigrant in terms of this Act;

"representative of a foreign Government" means any representative in Swaziland of a foreign Government other than a diplomatic agent or consular officer;

"residence permit", "temporary residence permit" or "permit" means a permit to reside in Swaziland issued under section 22;

"servant" means any person who is not a member of a diplomatic staff and who is exclusively and bona fide in the employ of a diplomatic agent;

"magistrate's court" means Subordinate Court of the First Class or Second Class as constituted by the Subordinate Courts Proclamation (Cap. 20);

"travel documents" mean -

(a) such passport or other travel document of a class as is recognised for the purpose by the Chief Immigration Officer and which -

- (i) was issued to that person (or, in the case of a wife accompanying her husband, either to that person or to her husband) on behalf of the Government or any government recognised by the Government; and
  - (ii) contains a personal description of that person the name of the country or territory in which he was born, his nationality and citizenship and the date of his birth and to which is attached a photograph of him in which his features are clearly and correctly depicted; and
  - (iii) in the case of an alien and except where a visa is dispensed with in pursuance of an arrangement to which the Government is a party or which has been entered into on behalf of the Government, bears, in respect of that person, the visa or other endorsement of an officer authorised by the Government to place visas or other endorsements upon those passports or other documents; or
- (b) a certificate of re-entry issued to that person under section 19 (Amended A29/1969).

## **Part II - IMMIGRATION GENERALLY**

### **5. Examination of persons.**

(1) Unless he is a person exempted by subsection (3) or under section 8, a person who enters Swaziland shall report to an immigration officer within forty-eight hours of such entry.

(2) The following persons are hereby exempted from the requirement of subsection (1) -

(a) a person -

(i) belonging to Swaziland; or

(ii) in possession of a valid permit; who returns after an absence not exceeding six months.

(b) a person who -

(i) has entered Swaziland other than through the border posts of Nomahasha or Mhulemeni; and

(ii) obtains accommodation on the night of his arrival on premises in respect of which the hotel keeper is responsible; and

(iii) has completed in duplicate the form referred to in section 6 in the manner therein provided.

(3) An immigration officer may, in his discretion, examine a person mentioned in subsection (1) for the purpose of ascertaining whether that person is entitled to be in Swaziland in accordance with this Act.

(4) Such person shall furnish to an immigration officer such information or documents as that officer may require for the purpose of discharging his functions under subsection (3).

(5) A person liable to be examined by an immigration officer under this section shall, if directed to do so by such officer in the course of his examination -

(a) declare whether or not he is carrying or conveying any documents or other articles of a description specified by that officer, being a description appearing to that officer to be relevant for the purposes of the examination;

(b) produce to the officer any documents or articles of such a description which he is carrying or conveying;

(c)submit to his fingerprints, or photographs of him, or both, being taken; and

(d)submit to examination by a medical practitioner, named by the officer, for the purpose of ascertaining whether the person is infected or afflicted with, or suffering from, a disease or physical infirmity which would render him a prohibited immigrant under this Act and the power to examine such a person includes the power, subject to subsection (6) to search him and anything belonging to him or under his control with a view to ascertaining whether he is carrying or conveying any documents or articles of the description mentioned in paragraph (a).

(6)A woman or girl shall not be searched except by a woman; and, where there is no woman immigration officer available for such a search, the search may be carried out by a woman named for the purpose of an immigration officer.

(7)A person who is found in Swaziland by an immigration officer or a police officer, and who is suspected by that officer of being a prohibited immigrant or of having failed to report to an immigration officer as required by this section, shall be required by such officer to appear before an immigration officer and submit to examination described in this section.

(8)A person who contravenes this section or who fails to comply with a direction given, or requirement imposed, under this section shall be guilty of an offence and liable, on conviction to the penalties prescribed by section 31(1).

## **7. Entry requirements.**

(1)No person other than one exempted by subsection (2) of section (8), shall enter or remain in Swaziland unless he is in possession of a travel document or a valid permit.

(2)The following persons are hereby exempted from the requirements of subsection (1) -

(a)any person in the employ of the Swaziland Government and his wife and also his children under the age of twenty-one years;

(b)a person mentioned in section 19 paragraphs (d), (e), (f), (g) or (h).

(3)A person who contravenes subsection (1) shall be guilty of an offence and liable, on conviction, to the penalties prescribed by section 31(1).

## **8. Exemptions.**

(1)The persons or class of persons referred to in subsection (2) are hereby exempted from the requirements of sections 5 and 6.

(2)The following are the persons or class of persons for the purposes of subsection (1) -

(a)any person in the employ of the Swaziland Government, his wife and any child of his under the age of twenty-one years;

(b)any of the persons or any person belonging to a class of persons referred to in section 10(b) to (h), inclusive;

(c)a person who -

(i) by notice of the Minister, or of a public officer to whom the Minister may delegate his powers under this paragraph, is declared to be a distinguished visitor or an officer or other employee of a government or a public body; and

(ii) has no intention of residing permanently in Swaziland.

(3) For the avoidance of doubt, it is hereby declared that -

(a) a person exempted by this section may, if he wishes, make application in accordance with section 22 for the grant of a permit; and

(b) the grant or refusal of such application shall not affect such exemption.

## **9. Prohibited immigrants.**

(1) Subject to the other provisions of this Act, the following persons are hereby declared to be prohibited immigrants -

(a) a person who, in the opinion of an immigration officer, is of the age of sixteen years or over and who fails, on demand by that immigration officer on examination by him under section 5, to produce to him a valid travel document;

(b) a person who, if he entered Swaziland, would be likely to become or, having entered Swaziland, has become a public charge by reason of infirmity of mind or body or because he is not in possession, for his own use, of sufficient means to support himself and such of his dependants as he proposes to bring with him, or has brought, into Swaziland;

(d) a person who is infected or afflicted with, or suffering from, a prescribed disease, or who is not in possession of a prescribed certificate of inoculation or vaccination against a prescribed disease and is not able to show sufficient evidence of protection against that disease by previous attack of that disease, unless he has the written authority of an immigration officer to enter and remain in Swaziland (which authority the immigration officer may, in his discretion, issue subject to such conditions as he considers fit) and complies with those conditions; (f) a person who has been convicted in any country or territory of any of the following offences, by whatever name called, and has not received a free pardon therefor -

(i) murder; culpable homicide; rape; incest; sodomy; bestiality;

(ii) arson; theft; receiving stolen goods knowing the same to have been stolen; fraud; forgery or uttering forged documents knowing the same to have been forged; counterfeiting coin or uttering coin knowing the same to be counterfeit; housebreaking with intent to commit an offence; robbery; threats by letter or otherwise with intent to extort; fraudulent insolvency;

(iii) unlawfully selling firearms or ammunition; dealing in or being in possession of unwrought precious metals or stones; §

(iv) a contravention of a law relating to habit-forming drugs or of a law relating to the practice of herbalism or to witchcraft; or

(v) an attempt to commit any of the foregoing offences;

(g) a person who, in consequence of information received from a source considered by the Minister to be

reliable, is deemed by the Minister to be an undesirable inhabitant of, or visitor to, Swaziland;

(h) a person who has not an unrestricted right of re-entry into the country or territory from which he has entered Swaziland;

(i) a person who has been removed from, or required to leave, Swaziland under the provisions of this Act or any other law; and

(j) the wife and also the children under the age of twenty-one years, and any other dependants, of a prohibited immigrant or of a person deemed by this Act to be a prohibited immigrant.

(2) No person has the right to be heard before or after a decision is made under subsection (1)(g).

(3) No person affected by a decision under subsection (1)(g) has the right to demand any information as to the grounds for the decision nor shall any such information be disclosed in a court of law.

(4) Where the Minister exercises the power conferred on him by subsection (1)(g), he shall cause written or telegraphic notice thereof to be transmitted to the immigration officer concerned.

## **11. Exclusion of prohibited immigrants.**

(1) A prohibited immigrant shall not enter or remain in Swaziland.

(2) Subject to this Act, an immigration officer shall cause a prohibited immigrant entering or found within Swaziland to be removed from Swaziland.

## **12. Detention of suspected prohibited immigrants.**

(1) A person suspected of being a prohibited immigrant may be detained by an immigration officer for such reasonable period, not exceeding fourteen days, as may be required for the purpose of making inquiries as to the identity and antecedents of that person.

(2) Such person may be detained in the nearest convenient prison unless he, or such sureties as may be approved by the Chief Immigration Officer -

(a) enter into a bond for an amount approved by the Chief Immigration Officer; and

(b) deposit such sum, if any, as may be fixed by the Chief Immigration Officer to satisfy any judgment which may be given on the bond.

(3) The bond shall contain the following conditions -

(a) the person shall appear within such period and before such person as may be prescribed in the bond;

(b) the person shall report himself to an immigration officer at such times as may be fixed in the bond; and

(c) such other conditions as the Chief Immigration Officer sees fit to impose.

(4) Upon breach of a condition of the bond, a court of competent jurisdiction may, upon application by the Chief Immigration Officer, give judgment against the person or his sureties in accordance with the provisions of the bond and that person may be arrested and detained in the nearest convenient prison until completion of

the inquiries.

(5) A person so detained and not serving a sentence of imprisonment shall be treated as a person awaiting trial.

### **13. Notice to, and appeals by, prohibited immigrants.**

(1) Where, on the examination of a person under section 5 or otherwise, an immigration officer determines, or has information, that the person is a prohibited immigrant, the immigration officer shall give that person notice, in the approved form that he is a prohibited immigrant and shall therein advise him of the provision of this Act under which he is considered to be a prohibited immigrant.

(2) Subject to subsection (7), a person to whom notice is given under subsection (1) may appeal against it to a magistrate's court of the First Class.

(3) Such an appeal shall be noted within forty-eight hours after the notice is given.

### **15. Removal of prohibited immigrants.**

(1) A prohibited immigrant who does not give notice of appeal under section 13 or his appeal is dismissed, and who fails to comply with any directions of an immigration officer to leave Swaziland, shall be removed from Swaziland, in accordance with this Act, by an immigration officer.

(2) A prohibited immigrant who is serving a sentence of imprisonment for a contravention of this Act may, if the Minister so directs, be removed from Swaziland by an immigration officer and the sentence shall be deemed to have expired on the departure of the prohibited immigrant.

### **16. Detention of prohibited immigrant or alien pending removal.**

(1) An immigration officer shall detain -

(a) a prohibited immigrant or an alien who has been given directions to leave Swaziland; and

(b) a prohibited immigrant who is being removed from Swaziland in accordance with this Act; for such period as may be necessary for the completion of arrangements for him to leave Swaziland.

(2) Such person may, during that period, be detained in the nearest convenient prison.

(3) A person so detained and not serving a sentence of imprisonment shall be treated as a person awaiting trial.

## **Part III - VISITORS AND RESIDENTS**

### **22. Permits for residence**

(1) A person who wishes to reside in Swaziland may make application -

(a) to the Board for the grant of a residence permit, or

(b) to the Chief Immigration Officer for the grant of a temporary residence permit.

(2) An application under subsection (1)(a) shall -

(a) be made in the approved form (obtainable from the secretary of the Board or an immigration officer);

(b) contain the particulars required in the form; and

(c) be forwarded to the Board in the prescribed manner.

(3) The Board shall consider an application submitted to it and may obtain and consider from any source such additional information relating to the applicant as it may deem necessary.

(4) The Board shall thereafter, on payment of the prescribed fee, issue a residence permit to an applicant who has not been given notice under section 13(1) that he is a prohibited immigrant if -

(a) it considers that the requirements of subsection (5) are satisfied in relation to the applicant, but subject to such general directions as the Minister may give it concerning the requirement of subsection (5)(d); or

(b) the Minister instructs it to issue the applicant with a residence permit.

(5) The requirements referred to in subsection (4) are that -

(a) the applicant is of good character; and

(b) in the case of an applicant who proposes to take employment or engage for reward in any business, profession or other occupation in Swaziland, he has qualifications, education, training and experience likely to render him efficient in that employment or occupation, and sufficient prospects of obtaining that employment or sufficient capital to engage in that occupation, as the case may be; or in the case of any other applicant, he is in a position to support himself and his dependants, if any, in Swaziland otherwise than by taking employment or engaging for reward in a business, profession or other occupation; and

(c) he belongs to one of the principal races of Swaziland; and (d) it is in the interests of Swaziland that the permit should be granted to him.

(6) Notwithstanding subsection (5), the Board may issue a residence permit -

(a) to the wife and child under the age of eighteen years, of a person -

(i) whose application for a residence permit has been approved by the Board; or

(ii) who is permanently and lawfully resident in Swaziland; or

(b) to the aged parent or grandparent of a person mentioned in paragraph (a)(i) or (ii) who is able, and undertakes, to maintain such parent or grandparent.

(7) A residence permit shall be issued for such period and contain such conditions (in this section referred to as "residence conditions") as the Board or, in the case of a permit issued on the instructions of the Minister, the Minister may deem fit.

(8) Such a permit shall be in the approved form, and signed by the Chairman or such other person as the Chairman may authorize for the purpose.

(9) The Minister may, at any time by notice in writing given to a particular person to whom a residence permit



has been issued, or, by order published in the Gazette, applying to all such persons of a specified class, vary or revoke, in such manner as he thinks fit, any residence conditions for the time being in force in respect of that person, or of persons of that class, as the case may be.

(10)A residence permit may, from time to time, be renewed on the expiration of a period of validity thereof if the person to whom the permit was issued is not deemed to belong to Swaziland; and he makes application to the Board for renewal of the permit; and thereupon the preceding provisions of this section shall have the same effect in relation to such renewal as they have in relation to the issuance of such permit.

(11)An application under subsection (1)(b) shall -

(a)be made in the approved form (obtainable from an immigration officer);

(b)contain the particulars required in that form; and

(c)be forwarded to the Chief Immigration Officer in the prescribed manner.

(12)Subsection (3) shall mutatis mutandis apply to an application made to the Chief Immigration Officer.

(13)The Chief Immigration Officer may, in his discretion but subject to the general directions of the Board -

(a)grant a temporary residence permit to a person who has applied under subsection (1) and cause it to be issued to him in the approved form.

(b)such permit shall be valid for such period, not exceeding two years, as the Chief Immigration Officer may specify in the permit contain such conditions (in this section referred to as "temporary residence conditions") as the Chief Immigration Officer considers fit and be signed by the Chief Immigration Officer or an immigration officer deputed for the purpose; and

(c)on the application of such person, renew a temporary residence permit for such further period, or further periods, not exceeding two years at a time, and containing such temporary residence conditions, as the Chief Immigration Officer considers fit.

(14)Any person aggrieved by the refusal of the Chief Immigration Officer to grant him a temporary residence permit or to renew one issued to him; or by the temporary residence conditions of such a permit, may make application in writing to the Board for a review of the decision or condition in question and the Board shall review the decision or condition and may either confirm or vary it.

(15)A decision of the Board or of the Minister or of the Chief Immigration Officer concerning an application made under this section, or a condition imposed in a permit issued under this section, shall not be questioned in a court.

(16)A person, to whom a residence permit or a temporary residence permit has been issued, who fails to comply with any residence conditions or temporary residence conditions, as the case may be, to which he is subject shall be guilty of an offence and liable on conviction to the penalties prescribed in section 31(2).

## **23. Cancellation of permits.**

(1)Subject to this section, the Board or, in the case of a residence permit issued or renewed on the instructions of the Minister, the Minister or, in the case of a temporary residence permit, the Chief Immigration Officer, may in its or his discretion, decide to cancel a residence permit, or, a temporary

residence permit as the case may be, if the holder of the permit -

- (a) does not take up residence in Swaziland within six months after the date of issuance of the permit; or
- (b) absents himself from Swaziland for a longer period than six months in any period of twelve months; or
- (c) his agent is convicted of an offence under section 28 in connexion with the application for the issuance or renewal of such permit; or
- (d) is convicted of an offence under section 22(16); or
- (e) is twenty-one years old or more and is convicted of any other offence punishable with imprisonment and the court before which he is convicted or a court to which his case is brought by way of appeal against conviction or sentence, recommends that the permit be cancelled.

(2) Where the Chief Immigration Officer so decides to cancel a temporary resident permit, the holder of the permit may, before the expiry of the period mentioned in subsection (4)(b), apply in writing to the Board for a review of the decision and the Board shall review it and may confirm it or set it aside.

(3) For the purposes of the law relating to appeals in criminal cases, a recommendation made under subsection (1)(e) shall be treated as an order made on conviction.

(4) The validity of a recommendation so made shall not be called in question except on an appeal against the recommendation, or the conviction upon which it was made.

(5) Where, it is decided under subsection (1) to cancel a permit, the Board or, the Minister or the Chief Immigration Officer shall as the case may be, cause written notice of the cancellation to be served on the holder of the permit which notice shall state:

- (a) the reasons for the cancellation; and
- (b) the period that is to elapse, after the service, before the cancellation is to take effect; and
- (c) that he is required to leave Swaziland forthwith on the cancellation taking effect.

(6) A person who is required to leave Swaziland under the provisions of subsection (5) and who fails to do so, without reasonable excuse (proof of which shall lie on him), shall be removed therefrom by an immigration officer.

(7) Where the holder of a residence permit or a temporary residence permit is -

- (a) lawfully given directions to leave Swaziland, or
- (b) removed from Swaziland as a prohibited immigrant, his permit shall, notwithstanding subsection (4), be deemed to be cancelled on his departure from Swaziland.

## **Part IV - ADDITIONAL PROVISIONS IN RESPECT OF ALIENS**

### **25. Deportation of aliens.**

(1) Subject to subsection (5), the Minister shall make an order requiring an alien to leave Swaziland (in this section referred to as a "deportation order") if -

(a) such alien, not being the holder of a permit, is convicted of an offence punishable with imprisonment and the court before which he is convicted, or a court to which his case is brought by way of appeal against conviction or sentence, recommends that a deportation order be made; or

(b) the Minister deems it to be conducive to the public good to make a deportation order in respect of such alien.

(2) For the purposes of the law relating to appeals in criminal cases, a recommendation made under subsection (1)(a) shall be treated as an order made on conviction and the validity of such a recommendation shall not be called into question except on an appeal against the recommendation, or the conviction upon which the recommendation was made.

(3) A deportation order shall be in writing under the hand of the Minister who shall specify, in the order, the period that is to elapse after the service before the order is to take effect and cause the order to be served on the person to whom it relates.

(4) If, on the expiration of the period specified in a deportation order, the alien in respect of whom the order was made has not left Swaziland, he shall be deemed to be a prohibited immigrant and dealt with accordingly.

(5) Nothing in this section shall apply to an alien of a class mentioned in section 10 (b), (c), (d), (e), (f), (g) or (h).

## Search Refworld

by keyword

and / or country

[Advanced Search](#) | [Search Tips](#)

## Countries

- [Swaziland](#)

## Topics

- [Immigrants](#)
- [Immigration law](#)