

Act amending Section 30  
and Section 50

**REPUBLIC OF SOUTH AFRICA**  
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Kaapstad,

**THE PRESIDENCY**

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

**No. 13 of 2011: Immigration Amendment Act, 2011**



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- (b) by the substitution in subsection (1) for paragraph (b) of the following paragraph:  
“(b) anyone against whom a warrant is outstanding or a conviction has been secured in the Republic or a foreign country in respect of genocide, terrorism, human smuggling, trafficking in persons, murder, torture, drug-related charges, money laundering or kidnapping;”; and 5
- (c) by the substitution in subsection (1) for paragraph (f) of the following paragraph:  
“(f) anyone found in possession of a fraudulent [residence permit,] 10  
visa, passport, permanent residence permit or identification document.”.

**Amendment of section 30 of Act 13 of 2002, as amended by section 31 of Act 19 of 2004**

20. Section 30 of the principal Act is hereby amended— 15
- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:  
“The following foreigners may be declared undesirable by the Director-General, as prescribed, and after such declaration[,] do not qualify for a port of entry visa, visa, admission into the Republic [, a temporary] or a permanent residence permit;”; 20
- (b) by the substitution in subsection (1) for paragraphs (f) and (g) of the following paragraphs:  
“(f) anyone who is a fugitive from justice; [and] 25  
(g) anyone with previous criminal convictions without the option of a fine for conduct which would be an offence in the Republic, with the exclusion of certain prescribed offences [.; and]”; and
- (c) by the addition of the following paragraph:  
“(h) any person who has overstayed the prescribed number of times.”.

**Substitution of section 35 of Act 13 of 2002, as amended by section 36 of Act 19 of 2004** 30

21. The following section is hereby substituted for section 35 of the principal Act:

**“Duties with regard to conveyances**

35. (1) Save for exceptional circumstances necessitating otherwise, no person in charge of a conveyance shall cause that conveyance to enter the Republic at any place other than at a port of entry. 35
- (2) (a) The owner or person in charge of a prescribed conveyance entering into, departing from or in transit through the Republic, shall comply with the provisions of this section by enabling electronic transmission and receipt of the prescribed information to the Director-General in the prescribed manner. 40
- (b) The owner or person in charge of a conveyance entering into, departing from or in transit through the Republic, shall within the prescribed period prior to boarding persons onto his or her conveyance, electronically transmit the prescribed information to the Director-General in respect of each person. 45
- (c) The owner or person in charge of a conveyance shall act in accordance with a boarding advice issued by the Director-General in respect of each person contemplated in paragraph (b).
- (3) (a) The owner or person in charge of a conveyance entering into, departing from or in transit through the Republic by air or conveying persons on domestic flights within the Republic, shall comply with the provisions of this section by enabling electronic transmission of the prescribed passenger name record information in respect of all persons 50

- (ii) any fabricated or falsified permanent residence permit, port of entry visa, visa, certificate, written authority or other document; or
  - (b) without sufficient cause has in his, **[or]** her or its possession—
    - (i) any stamp or other instrument which is used or capable of being used for purposes of fabricating or falsifying or unlawfully recording on any document any endorsement under this Act or required to be submitted in terms of this Act;
    - (ii) any form officially printed for purposes of issuing any permanent residence permit, port of entry visa, visa, certificate, written authority or other document under this Act or required to be submitted in terms of this Act, or any reproduction or imitation of any such form;
    - (iii) any passport, travel document, identity document or other document used for the facilitation of movement across borders, which is blank or reflects particulars other than those of the person in whose possession it is found; or
    - (iv) any fabricated or falsified passport, travel document, identity document or other document used for the facilitation of movement across borders,
- shall be guilty of an offence and liable on conviction to **[a fine or to]** imprisonment for a period not exceeding **[four]** 15 years without the option of a fine.
- (16) Any person who—
- (a) contravenes or fails to comply with any provision of this Act, if such contravention or failure is not elsewhere declared an offence, or if no penalty is prescribed in respect of an offence; or
  - (b) commits any other offence under this Act in respect of which no penalty is elsewhere prescribed,
- shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding **[two]** seven years.”.

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

25. Section 50 of the principal Act is hereby amended—
- (a) 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 **[liable to an administrative fine of a prescribed amount not exceeding R3000, which fine shall be imposed by the Director-General on detection of the overstay and exacted when such foreigner is admitted or makes an application with the Director-General]** dealt with in terms of section 30(1)(h).”;
  - (b) by the substitution for subsection (3) of the following subsection:
    - “(3) Any owner or person in charge of a conveyance who through negligence contravenes the provisions of section 35**[(7)](9)**, shall be liable to an administrative fine of a prescribed amount **[not exceeding R10 000]**, which fine shall be imposed by the Director-General”; and
  - (c) by the addition of the following subsection:
    - “(4) Any owner or person in charge of a conveyance who—
      - (a) fails to comply with the provisions of section 35(2)(a), (b) or (c) or (3)(a); or
      - (b) transmits inaccurate information contemplated in section 35(2)(b) or (3)(b),shall be liable to an administrative fine of a prescribed amount, which fine shall be imposed by the Director-General.”.