

REPUBLIC OF ZAMBIA

THE REFUGEES (CONTROL) ACT

CHAPTER 120 OF THE LAWS OF ZAMBIA

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ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Declaration of refugees
4. Reception areas and refugee settlements
5. Places of entry or departure
6. Registration of refugees and identity cards
7. Restriction on possession of firearms, weapons, etc., by refugees
8. Detention and slaughter of animals
9. Use of vehicles
10. Deportation of refugees
11. Permits to remain in Zambia
12. Requirement to reside in reception area or refugee settlement
13. Control of refugee settlements
14. Restrictions relating to refugee settlements
15. Offences and penalties
16. Arrest and use of force
17. Protection of officers
18. Manner of publishing rules, orders, etc.

CHAPTER 120

40 of 1970

REFUGEES (CONTROL)

An Act to make provision for the control of refugees; and to provide for matters incidental thereto.

[4th September, 1970]

1. This Act may be cited as the Refugees (Control) Act.

Short title

2. In this Act, unless the context otherwise requires-

Interpretation

"authorised" means authorised by the Minister;

"authorised officer" means the Commissioner and includes a refugee officer, an authorised police officer, an authorised officer of the Zambia Prisons Service or of the Defence Force, and any public officer for the time being designated by the Minister as an authorised officer;

"Commissioner" means the person for the time being holding or acting in the public office of Commissioner for Refugees;

"prescribed" means prescribed by the Minister;

"reception area" means an area declared as such under section *four*;

"refugee" means a person belonging to a class of persons to whom a declaration under section *three* applies;

"refugee officer" means any person for the time being holding or acting in the public office of refugee officer;

"refugee settlement" means a refugee settlement established under section *four*.

3. (1) Subject to the provisions of subsection (2), the Minister may declare, by statutory order, any class of persons who are, or prior to their entry into Zambia were, ordinarily resident outside Zambia to be refugees for the purposes of this Act.

Declaration of refugees

(2) A declaration under subsection (1) shall not apply to-

The Laws of Zambia

- (a) a citizen of Zambia;
- (b) any person entitled in Zambia to diplomatic immunity;
- (c) any person in the employment of any state, government or local authority outside Zambia, or of any organisation to which section *four* of the Diplomatic Immunities and Privileges Act applies, who enters Zambia in the course of his duties; Cap. 20
- (d) any member of a class of persons declared by the Minister, by statutory order, not to be refugees for the purposes of this Act.

(3) If any question arises in any proceedings, or with reference to anything done or proposed to be done, under this Act as to whether any person is a refugee or not, or is a refugee of a particular category or not, the onus of proving that such person is not a refugee or, as the case may be, is not a refugee of a particular category, shall lie upon that person.

4. (1) The Minister may declare any part of Zambia to be an area for the reception or residence of any refugees or category thereof. Reception areas and refugee settlements

(2) The Minister may establish in any reception area a refugee settlement for refugees or any category thereof, and may appoint a refugee officer to be in charge of such settlement.

5. (1) The Minister may, by order in writing- Places of entry or departure

- (a) direct that any refugee entering or leaving Zambia shall enter or leave by specified routes or at specified places;
- (b) direct that any refugee moving from one part of Zambia to another shall move by specified routes.

(2) Orders made under this section may be subject to such terms and conditions as the Minister may think fit.

(3) Any refugee who contravenes an order under this section or the terms or conditions thereof shall be guilty of an offence against this Act.

6. (1) Every refugee shall, within such period as may be prescribed, present himself for registration under this section in such manner and to such authority as may be prescribed. Registration of refugees and identity cards

The Laws of Zambia

(2) Every refugee shall, upon registration under this section, be issued with an identity card in such form and containing such particulars as may be prescribed, and shall keep such identity card in his possession at all times while in Zambia.

(3) The Minister shall cause registers to be kept for the purposes of this section in such form as the Minister may from time to time determine.

(4) Any refugee who contravenes any of the provisions of this section shall be guilty of an offence against this Act.

7. (1) No refugee shall, while in Zambia, acquire or be in possession of any firearm or ammunition.

Restriction on possession of firearms, weapons, etc., by refugees

(2) A refugee who brings any firearm or ammunition into Zambia shall immediately surrender such firearm or ammunition to an authorised officer.

(3) The Minister may, by order in writing, direct that any refugee shall, within such time as may be specified in the order, surrender to an authorised officer any weapon, or any instrument or tool so specified which is capable of being used as a weapon and which is in or comes into his possession, unless the possessor thereof has written authority to retain the same signed by an authorised officer.

(4) Any refugee who-

(a) contravenes the provisions of subsection (1);

(b) fails to surrender any firearm, ammunition, weapon, instrument or tool in accordance with this section or any order made hereunder;

shall be guilty of an offence and shall be liable on conviction to imprisonment for a period not exceeding two years.

(5) In this section, "firearm" and "ammunition" have the meanings respectively assigned thereto in the Firearms Act, but, save as aforesaid, nothing in that Act shall apply in relation to a refugee.

Cap. 110

8. (1) The Minister may, by order, direct that any animal imported from outside Zambia by any refugee shall be kept in such place as he may direct or, if it appears to the Minister necessary or expedient in the interests of the health of persons or animals, that any such imported animal shall be slaughtered or otherwise disposed of.

Detention and slaughter of animals

The Laws of Zambia

(2) Where an animal imported by a refugee is sold, or is slaughtered and the meat or carcass thereof sold, in pursuance of a direction under subsection (1), the proceeds of the sale less the expenses of the sale shall be paid to such refugee:

Provided that where in any case it is not reasonably practicable to make payment as aforesaid, such proceeds shall be paid into a fund which shall be used for the benefit of refugees.

(3) Any person who obstructs the carrying out of any direction given under this section shall be guilty of an offence against this Act.

9. (1) No vehicle in which a refugee enters Zambia, or which is acquired by or comes into the possession of a refugee while in Zambia, shall be used in Zambia by such refugee save with the permission in writing of an authorised officer or otherwise than in accordance with the terms of such permission. Use of vehicles

(2) It shall be a condition for the granting of permission under this section for the use of a vehicle that an authorised officer may, for so long as may be necessary for the purpose of providing transport for refugees or of moving any stores or equipment for the use of refugees, take possession of such vehicle at any time and may authorise its use by any person for any of the said purposes.

10. (1) The Minister may at any time order any refugee to return by such means or route as he shall direct to the territory from which he entered Zambia. Deportation of refugees

(2) A court convicting any refugee of an offence under the provisions of this section may order the deportation of such refugee to the territory from which he entered Zambia.

(3) Where any person is ordered to return to the territory from which he entered Zambia or to be deported under subsection (1) or (2), he may be held in custody and deported in accordance with such order.

(4) No order shall be made under subsection (1) or (2) in respect of a refugee if the Minister or the court, as the case may be, is of the opinion that such refugee may be tried, or detained or restricted or punished without trial, for an offence of a political character after arrival in the territory from which he came or is likely to be the subject of physical attack in such territory.

(5) Any refugee who fails to comply with an order made under subsection (1) shall be guilty of an offence against this Act.

(6) Where an order is made under this section in respect of a refugee who has been present in Zambia for a continuous period of not less than three months immediately prior to the making of the order, the authority making the order shall inform the refugee, or cause him to be informed, that he may make representations against his deportation on the grounds that he is in danger of being tried, or detained or restricted or punished without trial, for an offence of a political character after arrival in the territory from which he came or is in danger of physical attack in such territory. A refugee to whom this subsection applies who wishes to make such representations shall make them forthwith to the person by whom he is so informed and that person shall reduce such representations to writing and forward them to the Minister; and the Minister shall consider the same and determine whether or not the refugee shall be deported in accordance with the order in that behalf or whether that order shall be revoked and, where the Minister determines that the order shall be revoked, he shall have the power to revoke the same. Pending the determination of the Minister on any such representations, the order for the deportation of the refugee shall be suspended.

11. (1) No refugee shall remain in Zambia-

Permits to remain in Zambia

- (a) unless within seven days of his entering Zambia he is issued with a permit to remain by an authorised officer;
- (b) unless he complies with the terms or conditions from time to time annexed to such permit by an authorised officer.

(2) An authorised officer shall not refuse a refugee a permit under this section if the officer has reason to believe that the refusal of a permit will necessitate the return of the refugee to the territory from which he entered Zambia and that the refugee may be tried, or detained or restricted or punished without trial, for an offence of a political character after arrival in that territory or is likely to be the subject of physical attack in that territory; but, save as aforesaid, such authorised officer may in his discretion and without assigning any reason refuse to issue a permit.

(3) If a refugee fails to obtain or is refused a permit in accordance with this section, his presence in Zambia shall be unlawful.

12. (1) The Minister may-

Requirement to reside in reception area or refugee settlement

- (a) by order, require any refugee to reside within a reception area or refugee settlement;
- (b) require any refugee who is within a reception area or refugee settlement to remove to and reside in some other place, being a reception area or refugee settlement.

(2) Any refugee to whom an order made under this section applies who-

- (a) fails to take steps forthwith to comply with such order; or
- (b) fails to move to or take up residence in a reception area or refugee settlement in accordance with such order with reasonable despatch; or
- (c) having arrived at a reception area or a refugee settlement in pursuance of such order, leaves or attempts to leave such area or settlement except in pursuance of some other order made under this section;

shall, unless he is in possession of a permit issued in that behalf under subsection (3), be guilty of an offence against this Act.

(3) An authorised officer may issue a permit to any refugee to whom an order made under subsection (1) applies, authorising him-

- (a) to reside in a reception area elsewhere than in the refugee settlement to which such order refers;
- (b) to leave a reception area in which he has been required to reside.

(4) An authorised officer may issue a permit under this section subject to such terms and conditions as he thinks fit, and, without prejudice to the generality of the foregoing, he may, where he issues a permit under paragraph (b) of subsection (3), specify the destination to which and the route by which such refugee may proceed.

(5) Any refugee to whom a permit has been issued under this section who fails to comply with the terms and conditions thereof shall be guilty of an offence against this Act.

13. (1) The Minister may make rules, and the Commissioner may issue directions not inconsistent with such rules, for the control of refugee settlements and, without prejudice to the generality of the foregoing, such rules and directions may make provision in respect of all or any of the following matters:

Control of refugee settlements

- (a) the organisation, safety, discipline and administration of such settlements;
- (b) the reception, treatment, health and well-being of refugees;
- (c) the powers of refugee officers in respect of such settlements.

The Laws of Zambia

(2) A refugee officer may give such orders or directions, either orally or in writing, to any refugee as may be necessary or expedient for the following purposes, that is to say:

- (a) to ensure that any refugee settlement is administered in an orderly and efficient manner;
- (b) to ensure the performance of any work or duty necessary for the maintenance of essential services in any refugee settlement or for the general welfare of the refugees therein;
- (c) to ensure that all proper precautions are taken to preserve the health and well-being of the refugees therein;
- (d) to preserve orderly conduct and discipline in any refugee settlement.

(3) Any refugee who-

- (a) without a permit in that behalf issued under section *twelve*, leaves or attempts to leave a refugee settlement in which he has been ordered to reside; or
- (b) in a refugee settlement disobeys any rules made by the Minister, any direction of the Commissioner or any order or direction of a refugee officer, made or given under this section; or
- (c) in a refugee settlement conducts himself in a manner prejudicial to good order and discipline;

shall be guilty of an offence against this Act.

14. (1) No person other than a refugee required to reside or residing in, or a person employed in, a refugee settlement, shall enter or be within such settlement except with the general or special permission of the Minister, the Commissioner or a refugee officer.

Restrictions relating to
refugee settlements

(2) No person other than the Commissioner or a refugee officer may in a refugee settlement address an assembly or meeting of more than ten refugees, whether or not such meeting is held in a public place.

(3) Any person who contravenes the provisions of this section shall be guilty of an offence against this Act.

15. (1) Any refugee who fails to obey any lawful order of the Commissioner or a refugee officer or who obstructs an authorised officer in the exercise of his powers under this Act shall be guilty of an offence and shall be liable on conviction to imprisonment for a period not exceeding three months.

Offences and penalties

(2) Any person who is guilty of an offence against this Act for which no penalty is specifically provided shall be liable on conviction to imprisonment for a period not exceeding three months.

16. (1) An authorised officer may arrest without warrant any refugee reasonably suspected by the authorised officer of having committed or attempted to commit an offence against this Act.

Arrest and use of force

(2) An authorised officer and any person acting with the authority of an authorised officer may use such force, including the use of firearms, as may be reasonably necessary to compel any refugee to comply with any order or direction made or given under this Act in relation to such refugee.

17. No act or thing done or omitted to be done by any authorised officer or other person shall, if the act or omission was done or omitted *bona fide* while acting in the execution of his duty under this Act, subject him personally to any liability, action, claim or demand whatsoever.

Protection of officers

18. (1) Save as provided in this section or any other law, rules, orders or directions under this Act may be published in such manner as the authority making the same considers appropriate in order to bring the same to the notice of the persons to whom they apply or who are affected thereby, and shall not be required to be published in the *Gazette*.

Manner of publishing rules, orders, etc.

(2) Any order or direction made or given under this Act which is applied or directed to a particular person shall, if in writing, be served on, or if not in writing, be given to, that person personally.

(3) Every declaration under section *three* shall be published in the *Gazette*.

SUBSIDIARY LEGISLATION

REFUGEES (CONTROL)

CAP. 120

SECTION 3-THE REFUGEES (CONTROL) (DECLARATION OF REFUGEES) ORDER

Statutory Instrument
240 of 1971

The Laws of Zambia

Order by the Minister

1. This Order may be cited as the Refugees (Control) (Declaration of Refugees) Order. Title
2. Persons who are, or prior to their entry into Zambia were, ordinarily resident outside Zambia and who have sought asylum in Zambia owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion are declared to be refugees for the purposes of the Act. Declaration of refugees

SECTION 4 (1)-THE REFUGEES (CONTROL) (DECLARATION OF RECEPTION AREAS) ORDER *Statutory Instrument 132 of 1971*

Order by the Minister

1. This Order may be cited as the Refugees (Control) (Declaration of Reception Areas) Order. Title
2. Each area described in the Schedule is hereby declared a reception area for the purposes of the Act. Declaration of reception areas

SCHEDULE

(Paragraph 2)

NYIMBA RECEPTION AREA

That piece of land, rectangular in shape, bounded in the east by the Great East Road, in the west by Nyimba Hospital, and situated at Nyimba, in the Petauke District of the Eastern Province of the Republic of Zambia.

MAYUKWAYUKWA RECEPTION AREA

That piece of land, about 40 kilometers west of Mangango Mission Station, situated at the confluence of the Luena and Luampa Rivers, in the Kaoma District of the Western Province of the Republic of Zambia.

LWATEMBO RECEPTION AREA

The Laws of Zambia

That piece of land, about 20 kilometers east of the Zambezi Boma and 3 kilometers north of the M8 road, in the Zambezi District of the North-Western Province of the Republic of Zambia.

MEHEBA RECEPTION AREA

That piece of land, about 70 kilometers west of Solwezi Boma, rectangular in shape, bounded in the west by the Meheba River, in the north by Protected Forest Area No. 105: Acres, in the south and south-east by the Mwafwe River, with an area of approximately 580 square kilometers, in the Solwezi District of the North-Western Province of the Republic of Zambia.

SECTION 4 (2)-THE REFUGEES (CONTROL) (DECLARATION OF RECEPTION AREAS)
ORDER

Statutory Instrument
133 of 1971

Order by the Minister

1. This Order may be cited as the Refugee (Control) (Establishment of Refugee Settlements) Order. Title

2. Each reception area described in the Schedule is hereby established as a refugee settlement. Establishment of refugee settlements

SCHEDULE

(Paragraph 2)

NYIMBA REFUGEE SETTLEMENT

That piece of land, rectangular in shape, bounded in the east by the Great East Road, in the west by Nyimba Hospital, and situated at Nyimba, in the Petauke District of the Eastern Province of the Republic of Zambia.

MAYUKWAYUKWA REFUGEE SETTLEMENT

That piece of land, about 40 kilometres west of Mangango Mission Station, situated at the confluence of the Luena and Luampa Rivers, in the Kaoma District of the Western Province of the Republic of Zambia.

LWATEMBO REFUGEE SETTLEMENT

That piece of land, about 20 kilometres east of the Zambezi Boma and 3 kilometres north of the M8 road, in the Zambezi District of the North-Western Province of the Republic of Zambia.

MEHEBA REFUGEE SETTLEMENT

The Laws of Zambia

That piece of land, about 70 kilometres west of Solwezi Boma, rectangular in shape' bounded in the west by the Meheba River, in the north by Protected Forest Area No. 105: Acres, in the south and south-east by the Mwafwe River, with an area of approximately 580 square kilometres, in the Solwezi District of the North-Western Province of the Republic of Zambia.

SECTION 4 (3)-THE REFUGEES (CONTROL) (DECLARATION OF RECEPTION AREAS)
ORDER

*Statutory Instrument
No. 86 of 1987*

Order by the Minister

1. This Order may be cited as the Refugee (Control) (Establishment of Refugee Settlements) Order. Title

2. Each reception area described in the Schedule is hereby established as a refugee settlement. Establishment of Refugee Settlement

SCHEDULE

(Paragraph 2)

UCWIMI REFUGEE SETTLEMENT

That piece of land rectangular in shape bounded in the North by the Lusandwa River, on the East by the Kasangazi River and situated 62 kilometers from Petauke Bowa in the Petauke District of the Republic of Zambia.