

**THE IMMIGRATION AND DEPORTATION
(AMENDMENT) BILL, 2016**

MEMORANDUM

The object of this Bill is to amend the Immigration and Deportation Act, 2010 so as to provide for—

- (a) to provide for the Zambia Police Service Commission as the appointing authority for immigration officers;
- (b) align the definition of “child” with that of the Constitution; and
- (c) provide for matters connected with, or incidental to, the foregoing.

L. KALALUKA,
Attorney-General

N.A.B 13 of 2016
19th April, 2016

A BILL

ENTITLED

An Act to amend the Immigration and Deportation Act, 2010

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Immigration and Deportation (Amendment) Act, 2016, and shall be read as one with the Immigration and Deportation Act, 2010, in this Act referred to as the principal Act.

Short title

Act No. 18
of 2010

2. Section *two* of the principal Act is amended by the deletion of the definition of “child” and the substitution therefor of the following:

Amendment
of section 2

“child” has the meaning assigned to it in the Constitution;.

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3. Section *three* of the principal Act is amended in subsection (1) by the deletion of paragraph (c).

Amendment
of section 3

4. Section *four* of the principal Act is amended by the deletion of the words “Public Service Commission”, wherever they appear, and the substitution therefor of the words “Zambia Police Service Commission”.

Amendment
of section 4

5. Section *ten* of the principal Act is amended—
(a) in subsection (1), by the deletion of the words “or removal”;
and

Amendment
of section
10

(b) in subsection (4), by the deletion of the word “Director’s”
and the substitution therefor of the words “Director-
General’s”.

6. Section *eighteen* of the principal Act is amended in subsection (1) (a) by the deletion, immediately after the word, “removal” of the words “or deportation”.

Amendment
of section 18

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Immigration and Deportation
(Amendment)

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- Amendment of section 20 7. Section *twenty* of the principal Act is amended—
(a) in subsection (2)—
 (i) by the insertion, in paragraph (c), immediately after the word “years”, of the words “or has been in Zambia on employment permit for a 5 continuous period of ten years”; and
 (ii) by the deletion of paragraph (g); and
(b) by the deletion of subsection (7).
- Amendment of section 23 8. Section *twenty-three* of the principal Act is amended in subsection (1) by the insertion, after paragraph (b), of the following 10 paragraph:
(c) residence permit holder.
- Repeal of section 24 9. The principal Act is amended by the repeal of section *twenty-four*.
- Amendment of section 28 10. Section *twenty-eight* of the principal Act is amended by— 15
(a) the deletion of subsection (2); and
(b) the deletion in subsection (5) of the word “five” and the substitution therefor of the word “ten”.
- Amendment of section 40 11. Section *forty* of the principal Act is amended in subsection (2) by the deletion of the word “deportation” and the substitution 20 therefor of the word “repatriation”.
- Amendment of section 52 12. Section *fifty-two* of the principal Act is amended by the deletion of subsection (5) and the substitution therefor of the following:
(5) A person who attempts to use or uses a passport, 25 diplomatic passport or travel document other than the one upon which that person’s entry was cleared, commits an offence.
(6) Subsection (5) does not apply to—
(a) a person whose passport, diplomatic passport or 30 travel document has been lost or stolen and in respect of which a police report has been made and is produced at the time of clearance proving the loss or theft; or
(b) a citizen of Zambia who holds dual citizenship. 35

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13. The principal Act is amended by the insertion, immediately after section *fifty-six*, of the following new section:

Insertion of section 56A

5 56A. (1) An immigration officer may, where satisfied that a person has committed an offence for which the penalty does not exceed two hundred thousand penalty units or where a person has admitted the commission of an offence under this Act for which the penalty does not exceed two hundred thousand penalty units, summarily demand from the person the payment of a fine not exceeding one hundred thousand penalty units in respect of the offence.

Payment of fine without appearing in court

10 (2) An immigration officer shall, where the immigration officer demands a payment under subsection (1), inform the person against whom the demand is made of the right to admit or dispute the liability.

15 (3) A person from whom payment of a fine has been demanded under subsection (1) may elect to admit liability and pay the fine or dispute liability.

20 (4) The payment of a fine shall operate as a bar to any further criminal proceedings against the person making the payment in respect of the offence concerned.

(5) An immigration officer who receives payment of a fine shall give a receipt to the person making the payment in such form as may be prescribed.

25 (6) An immigration officer who receives payment under this section and—

(a) fails to issue a receipt to the person making the payment as required under subsection (5);

(b) fails to account for any payment made under this section; or

30 (c) in any manner, misuses or puts to personal use any payment made under this section;

35 commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

14. The First Schedule to the principal Act is amended in class C by the insertion of the word “spouse” and a comma between the words “any” and “forebear.”

Amendment of First Schedule