

THE PASSPORT BILL, 2016

MEMORANDUM

The objects of this Bill are to—

- (a) provide for the vesting of powers and duties for the issuance of, and control over, passports and travel documents;
- (b) provide for the issuance of passports and travel documents;
- (c) provide for the recognition of Interpol travel documents;
- (d) repeal and replace the Passports Act, 2003; and
- (e) provide for matters connected with, or incidental to, the foregoing.

L. KALALUKA,
Attorney-General

THE PASSPORT BILL, 2016

ARRANGEMENT OF SECTIONS

PART I
PRELIMINARY PROVISIONS

Section

1. Short title and commencement
2. Interpretation

PART II
ADMINISTRATION

3. Chief Passports and Citizenship Officer, passport officers and other staff
4. Immunity

PART III
PASSPORT, DIPLOMATIC PASSPORTS AND TRAVEL DOCUMENTS

5. Persons entitled to passports, diplomatic passport and travel document
6. Types of passports and travel documents
7. Application for passport or travel document
8. Issuance and validity of passport and travel document
9. Refusal to issue passport, diplomatic passport or travel document
10. Renewal of passport
11. Confiscation of passport, diplomatic passport or travel document
12. Cancellation of passport or travel document
13. Surrender of passport, diplomatic passport or travel document
14. Issuance of passport at Zambian Mission
15. Prohibition of entering or leaving Zambia without passport or travel document
16. Delivery of passport, diplomatic passport or travel document
17. Replacement of lost or stolen passport, diplomatic passport or travel document
18. Appeal

PART IV
GENERAL PROVISIONS

19. Use of cancelled passport, diplomatic passport or travel document
20. Sale of passport, diplomatic passport or travel document

21. Failure or refusal to submit or surrender passport, diplomatic passport or travel document
22. Holding of more than one passport, diplomatic passport or travel document
23. General offences
24. Regulations
25. Repeal of Act No. 22 of 2003
26. Savings and transitional provisions

A BILL

ENTITLED

An Act to provide for the vesting of powers and duties for the issuance of, and control over, passports and travel documents; provide for the issuance of passports and travel documents; provide for the recognition of Interpol travel documents; repeal and replace the Passports Act, 2003; and provide for matters connected with, or incidental to, the foregoing.

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY PROVISIONS

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|----|--|----------------|
| 1 | 1. This Act may be cited as the Passports Act, 2016. | Short title |
| 5 | 2. In this Act, unless the context otherwise requires— | Interpretation |
| | “Chief Passports and Citizenship Officer” means the person appointed as Chief Passports and Citizenship Officer under section <i>three</i> ; | |
| | “child” has the meaning assigned to it in the Constitution; | Cap. 1 |
| 10 | “citizen” has the meaning assigned to it in the Constitution; | Cap. 1 |
| | “diplomat” means a person appointed by a State to represent the State in an official capacity in a foreign State; | |
| | “diplomatic passport” means a passport issued to a person to enable the person to travel internationally on official State business; | |
| 15 | “function” includes powers and duties; | |

- “ Interpol ” means the International Criminal Police Organisation established in 1923 and whose headquarters are in Lyon, France;
- “ Interpol travel document ” means the travel document issued by Interpol to law enforcement officers travelling and performing duties on behalf of Interpol;
- “ law enforcement officer ” means—
- (a) a police officer above the rank of sub-inspector;
 - (b) an officer of the Anti-Corruption Commission;
 - (c) an officer of the Drug Enforcement Commission; 10
 - (d) an officer of the Zambia Security Intelligence Service;
 - (e) an officer performing duties on behalf of Interpol;
- and
- (f) any other person appointed as such by the Minister for the purposes of this Act; 15
- “ passport ” means an official document issued by a government, certifying the holder’s identity and citizenship and entitling the holder to travel under its protection to and from a foreign country;
- “ passport officer ” means a person appointed as a passport officer under the Citizenship of Zambia Act, 2016; 20
- “ Republic ” has the meaning assigned to it in the Constitution;
- “ Stateless person ” means a person who is not considered as a national by any State under the operation of its law;
- “ travel document ” means a temporary official document, other than a passport, issued by a government or international organisation to facilitate the movement of a person across an international boundary; and 25
- “ Zambian Mission ” means a high commission, embassy or consular office of the the Republic, and includes such other offices as the President may declare pursuant to the Constitution. 30

Act No. of
2016

Cap. 1

Cap. 1

PART II

ADMINISTRATION

3. (1) The Chief Passports and Citizenship Officer, Deputy Chief Passports and Citizenship Officer, passport officers and other staff appointed under the Citizenship of Zambia Act, 2016, shall be responsible for the administration of this Act.

Chief Passports and Citizenship Officer, passport officers and other staff Act No. of 2016

(2) The functions of the Chief Passports and Citizenship Officer are to—

(a) issue passports, diplomatic passports and other travel documents; and

(b) perform such other functions as may be necessary or required for purposes of this Act.

(3) The Chief Passports and Citizenship Officer may, subject to the other provisions of this Act, on such terms and conditions as the Chief Passports and Citizenship Officer may determine, delegate any function of the Chief Passports and Citizenship Officer to the Deputy Chief Passports and Citizenship Officer or a passport officer.

4. An action or other proceeding shall not lie or be instituted against the Chief Passports and Citizenship Officer, a passport officer or other staff for, or in respect of, an act or thing done or omitted to be done in good faith in the exercise or performance of any of the functions conferred under this Act.

Immunity

PART III

PASSPORT, DIPLOMATIC PASSPORTS AND TRAVEL DOCUMENTS

5. (1) A citizen is, subject to the Constitution and this Act, entitled to be issued with a passport or travel document to facilitate international travel.

Persons entitled to passports, diplomatic passports and travel documents

(2) A citizen may lawfully hold a passport and a diplomatic passport.

(3) A passport, diplomatic passport or travel document issued under this Act is the property of the Government.

(4) Despite subsection (3), a passport, diplomatic passport or travel document issued under this Act shall remain under the control of its holder until lawfully withdrawn, cancelled or confiscated.

6. (1) The Chief Passports and Citizenship Officer may issue—

Types of passports and travel documents

(a) a passport;

(b) a diplomatic passport; and

(c) a travel document.

(2) a diplomatic passport may be issued to—

(a) a Zambian diplomat accredited to a foreign country and the diplomat's spouse; and

(b) such other persons as the Minister may prescribe. 5

(3) a travel document may be issued to—

(a) a citizen who, due to prescribed circumstances, cannot travel on an ordinary passport;

(b) an undocumented non-citizen who is stranded within Zambia or required to leave Zambia; or 10

(c) a Stateless person for the purpose of exiting Zambia.

(4) A travel document shall be issued to a Stateless person for travel to a specified country on the direction of the Minister.

(5) Where for any reason it is desirable to issue a passport for travel to a foreign country in circumstances in which a travel 15 document would normally be issued, a passport shall be issued.

Application
for passport
or travel
document

7. (1) Subject to the other provisions of this Act, a citizen shall, for the purposes of facilitating international travel, apply for a passport or travel document to the Chief Passports and Citizenship Officer in the prescribed manner and form upon payment of the 20 prescribed fee.

(2) The Minister may, by statutory instrument, prescribe the manner of applying for, and the grant, renewal and cancellation of, diplomatic passports.

Issuance and
validity of
passport and
travel
document

8. (1) The Chief Passports and Citizenship Officer shall, within 25 fourteen days of the receipt of an application for a passport or travel document, issue the applicant with a passport or travel document if the applicant meets the requirements of this Act.

(2) A passport shall be in the prescribed form and—

(a) shall specify the countries for which the passport is valid; 30
and

(b) is valid for a period of ten years from the date of issue.

(3) A passport issued in respect of a child who is below the age of sixteen years is valid for a period of *five* years from the date of issue. 35

(4) The Chief Passports and Citizenship Officer may endorse a passport as valid for a specific country or countries or restrict the validity to a specific country or countries—

(a) on request by an applicant; or

5 (b) if it is necessary to restrict an applicant to travel to a specific country or countries.

(5) The Chief Passports and Citizenship Officer shall record the reasons for the restriction under subsection (3) and furnish a report on the matter to the Minister.

10 (6) A travel document shall—

(a) specify the country for which it is valid; and

(b) be valid for such period as shall be specified in the travel document.

15 9. (1) The Chief Passports and Citizenship Officer may refuse to issue a passport, diplomatic passport or travel document if—

(a) in the case of an application for a passport, the applicant is not a citizen;

(b) the application is incomplete;

20 (c) the applicant does not meet the prescribed conditions for the issue of the passport, diplomatic passport or travel document;

(d) the applicant gives false information or makes a false statement for the purpose of obtaining a passport, diplomatic passport or travel document;

25 (e) the application is in respect of a child suspected of being taken out of Zambia against an order of a court or against the wishes of the parent or person responsible for the child;

30 (f) the applicant is prohibited by a court to hold a Zambian passport;

(g) the applicant is convicted of an offence and the sentence of the court has not been satisfied or set aside;

(h) a warrant for the arrest of the applicant is or has been issued by a court under any written law;

35 (i) the applicant has previously been repatriated or deported to Zambia and the reason for the repatriation or deportation is still in force; or

Refusal to
issue
passport,
diplomatic
passport or
travel
document

(j) the departure of the applicant from Zambia would be in breach of an international obligation of the Government, particulars of which are or have been notified to the Government.

(2) The Chief Passports and Citizenship Officer shall, where 5 the Chief Passports and Citizenship Officer refuses to issue a passport, diplomatic passport or travel document under subsection (1), inform the applicant accordingly and give the applicant the reasons for the refusal within fourteen days of making the decision.

Renewal of passport

10. (1) A holder of a passport or travel document may, at 10 least thirty days before the expiry of the passport or travel document, apply for the renewal of the passport or travel document in the prescribed manner and form, upon payment of the prescribed fee.

(2) The Chief Passports and Citizenship Officer shall renew the passport or travel document if the holder continues to fulfil the 15 eligibility requirement under this Act.

Confiscation of passport, diplomatic passport or travel document

11. (1) The Chief Passports and Citizenship Officer or a law enforcement officer may confiscate a passport, diplomatic passport or travel document if—

- (a) the holder permits another person to use, or travel using, 20 the passport, diplomatic passport or travel document;
- (b) the passport, diplomatic passport or travel document is in the wrongful possession of another person;
- (c) the passport, diplomatic passport or travel document was obtained by means of fraud or misrepresentation; 25
- (d) the holder is deported or repatriated to Zambia at the expense of the Government;
- (e) a warrant of arrest has been issued against the holder and there is a risk of the holder absconding;
- (f) there is a court order restricting the holder's movements 30 or authorising the confiscation of the passport, diplomatic passport or travel document; or
- (g) it is necessary to examine the passport, diplomatic passport or travel document for a period not exceeding fourteen days. 35

(2) The Chief Passports and Citizenship Officer shall, within seven days of confiscating a passport, diplomatic passport or travel document in accordance with subsection (1), inform the holder, in writing, and state the reasons for confiscating the passport, 5 diplomatic passport or travel document.

(3) A diplomatic passport shall be withdrawn if the purpose for which the diplomatic passport was issued ceases to exist.

12. (1) The Chief Passports and Citizenship Officer may cancel a passport or travel document on any ground on which the 10 Chief Passports and Citizenship Officer may confiscate a passport or travel document under section *eleven* and on the grounds that the holder—

Cancellation
of passport
or travel
document

(a) has ceased to be a citizen;

15 (b) obtained the passport or travel document through fraud or misrepresentation;

(c) has been repatriated or deported to Zambia at the expense of the Government due to that person's misconduct;

(d) is involved in passport, diplomatic passport or travel document fraud or forgery;

20 (e) uses the passport or travel document to commit an offence in another country which would constitute an offence in Zambia and is convicted of that offence in that country;

25 (f) is convicted of drug trafficking, money laundering, smuggling, trafficking in persons, acts of terrorism or any other international crime; or

(g) is deceased.

(2) The Chief Passports and Citizenship Officer shall, where the Chief Passports and Citizenship Officer cancels a passport or travel document, inform the holder accordingly and give the passport 30 holder the reasons for the cancellation within fourteen days of the cancellation.

(3) A person whose passport or travel document is cancelled shall, within twenty one days of the cancellation, surrender the passport or travel document to the Chief Passports and Citizenship 35 Officer, the nearest immigration office, police station or passport office.

13. (1) A person whose passport, diplomatic passport or travel document is expired or who no longer requires the use of the passport, diplomatic passport or travel document shall surrender it 40 to the Chief Passports and Citizenship Officer for cancellation.

Surrender of
passport,
diplomatic
passport or
travel
document

(2) The Chief Passports and Citizenship Officers shall, upon receipt of a passport, diplomatic passport or travel document surrendered pursuant to subsection (1), cancel the passport, diplomatic passport or travel document.

Issuance of
passport at
Zambian
Mission

14. (1) The Minister may, by statutory order, authorise a passport officer based at a Zambian Mission to perform all or any of the functions of the Chief Passports and Citizenship Officer under this Act.

(2) A passport officer shall, in performing the functions under subsection (1), act in accordance with the directions of the Minister or the Chief Passports and Citizenship Officer, which are consistent with the provisions of this Act.

Prohibition
of entering
or leaving
Zambia
without
passport or
travel
document

15. (1) Subject to subsection (3), a person shall not enter or leave Zambia without—

(a) a valid passport, diplomatic passport or travel document issued under this Act;

(b) in the case of a foreign national, a valid passport or travel document issued by or on behalf of the government of the country of which the person is a citizen or national;
or

(c) a valid Interpol travel document, in the case of a law enforcement officer travelling on behalf of, or performing duties for, Interpol.

(2) The Minister may, on such terms and conditions as the Minister considers just, exempt a person or class of persons from the provisions of subsection (1).

Delivery of
passport,
diplomatic
passport or
travel
document

16. (1) A person entering or leaving Zambia shall, on demand by a passport officer or an immigration officer, produce that person's passport or travel document.

(2) A person required to produce a passport, diplomatic passport or travel document by a passport officer or immigration officer shall, if required to do so, deliver the passport, diplomatic passport or travel document to a passport officer or an immigration officer before leaving the aircraft, vessel or motor vehicle in which the person enters Zambia or at any time while the person is in Zambia.

(3) Subject to subsection (4), a passport, diplomatic passport or travel document delivered to a passport officer or immigration officer under subsection (1) shall be returned to the holder on departure from Zambia.

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(4) The Chief Passports and Citizenship Officer or a passport officer may withhold, for such time as the Minister determines, a passport, diplomatic passport or travel document delivered under subsection (2) on a ground specified in section *nine*.

5 (5) A person who fails, without reasonable excuse, to deliver to the Chief Passports and Citizenship Officer or a passport officer a passport, diplomatic passport or travel document when required to do so commits an offence and is liable, upon conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a
10 term not exceeding six months, or to both.

17. (1) The holder of a passport, diplomatic passport or travel document shall, where the passport, diplomatic passport or travel document is lost or stolen—

15 (a) as soon as practicable after becoming aware of the loss or theft, report the loss or theft to the nearest police station in the district or country in which the passport, diplomatic passport or travel document is lost or stolen; and

20 (b) file a report on the loss or theft with the Chief Passports and Citizenship Officer.

(2) Where a passport, diplomatic passport or travel document is lost or stolen outside Zambia, the holder shall file a report with the passport office at a Zambian mission, where present, in that foreign country.

25 (3) The report referred to in subsection (1) shall be accompanied by—

(a) an application for the replacement of the passport, diplomatic passport or travel document;

(b) a police report; and

30 (c) an affidavit stating the circumstances under which the passport, diplomatic passport or travel document was lost or stolen.

(4) The Chief Passports and Citizenship Officer shall, on receipt of the application referred to in subsection (3), grant the
35 application in accordance with section *eight* if the holder meets the conditions for the issuance of a passport, diplomatic passport or travel document.

Replacement
of lost or
stolen
passport,
diplomatic
passport or
travel
document

(5) Where the Chief Passports and Citizenship Officer refuses to issue an applicant with a new passport, diplomatic passport or travel document under this section, the Chief Passports and Citizenship Officer shall, within seven days of making the decision, notify the applicant and state the reasons for the refusal. 5

Appeal

18. (1) A person aggrieved with the decision of the Chief Passports and Citizenship Officer under this Act may appeal to the Minister within thirty days of the service of the decision on that person.

(2) Where an appeal is made in accordance with subsection 10 (1), the Minister may give directions to the Chief Passports and Citizenship Officer that the Minister considers necessary to enable the Minister to determine the appeal.

(3) The Minister may, in determining the appeal, confirm, vary or set aside the decision of the Chief Passports and Citizenship 15 Officer.

(4) A person who is aggrieved with the decision of the Minister may appeal to the High Court within thirty days of the service of the decision on that person.

PART IV

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GENERAL PROVISIONS

Use of cancelled passport, diplomatic passport or travel document

19. (1) A person shall not use a cancelled passport, diplomatic passport or travel document in connection with identification or international travel.

(2) A person who contravenes this section commits an offence 25 and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Sale of passport, diplomatic passport or travel document

20. (1) A person shall not sell—

(a) a passport, diplomatic passport or travel document issued 30 under this Act; or

(b) a blank passport, diplomatic passport or travel document.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding six hundred thousand penalty units or to imprisonment for a term not 35 exceeding six years, or to both.

21. (1) A person shall not, without reasonable excuse, refuse or fail to submit or surrender a passport, diplomatic passport or travel document when required to do so by the Chief Passports and Citizenship Officer. Failure or refusal to submit or surrender passport, diplomatic passport or travel document
- 5 (2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding six months, or to both.
22. (1) Subject to section *five*, a person shall not hold more Holding of more than one passport, diplomatic passport or travel document
- 10 than one passport, diplomatic passport or travel documents issued under this Act in that person's name.
- (2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding
- 15 five years, or to both.
23. (1) A person shall not— General offences
- (a) knowingly make or cause to be made, a representation or statement which the person knows to be false in a material particular for the purpose of obtaining a passport, diplomatic passport or travel document under this Act;
- 20
- (b) forge, alter, deface, destroy or mutilate a passport, diplomatic passport or travel document or cause another person to forge, alter, deface or mutilate a passport or
- 25 travel document;
- (c) permit another person to use, for an unlawful purpose, a passport, diplomatic passport or travel document which belongs to that person or which is under that person's control;
- 30
- (d) have in that person's possession a passport, diplomatic passport or travel document or a part of a passport, diplomatic passport or travel document which is forged, altered, defaced, mutilated or whose particulars are incorrect; or
- 35
- (e) unlawfully procure a passport for, or assist, a foreigner to acquire a passport under this Act.
- (2) A person shall not, having come into possession of a passport, diplomatic passport or travel document belonging to another person—

(a) present the passport, diplomatic passport or travel document as belonging to a person other than the person to whom it belongs; or

(b) fail to hand over the passport as soon as practicable to the person to whom it belongs or to the Chief Passports and Citizenship Officer, a passport officer, immigration officer or a police officer.

(3) A person shall not use another person's passport, diplomatic passport or travel document in connection with that person's international travel or identification. 10

(4) A person who contravenes this section commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Regulations 24. (1) The Minister may, by statutory instrument, make 15 regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for—

(a) the manner and form of documents to be used for the purposes of this Act; 20

(b) the conditions to be satisfied for the issue, renewal or endorsement of a passport, diplomatic passport or travel document;

(c) the fees to be paid for a passport or travel document under this Act; 25

(d) the exemption of any person or class of persons from payment of the fees referred to in paragraph (c); and

(e) anything which is to be or which may be prescribed under this Act.

Repeal of Act No. 22 of 2003 25. The Passports Act, 2003, is repealed. 30

Savings and transitional provisions 26. (1) The person serving as Chief Passport Officer shall, on the commencement of this Act, continue to hold office as Chief Passports and Citizenship Officer as if appointed under this Act.

(2) A person serving as passport officer shall, on the commencement of this Act, continue to hold office as if appointed 35 under this Act.

(3) An ordinary passport, diplomatic passport or travel document which was valid and was issued by the Chief Passport Officer before the commencement of this Act shall, on the commencement of this Act continue to have effect as if issued 5 under this Act.

(4) In this section, “Chief Passport Officer” means the person appointed Chief Passport Officer under the repealed Act.

Act No. 22
of 2003