

THE PASSPORT ACT, 2003

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GOVERNMENT OF ZAMBIA

ACT

No. 22 of 2003

Date of Assent: 11th December, 2003

An Act to provide for the vesting of powers and duties with respect to the issuance of, and control over, passports and travel documents, and to provide for matters connected with, or incidental to the foregoing.

[12th December, 2003

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Passports Bill, 2003 and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title and commencement

2. In this Act, unless the context requires—

Interpretation

“Chief Passport Officer” means the person appointed as Chief Passport Officer under section *three*;

“citizen” means a citizen of Zambia;

“passport” means a passport issued in terms of this Act and includes a passport issued by a Government of a foreign country to a citizen of that country;

“travel document” means any travel document other than a passport issued in terms of this Act and includes a travel document issued by a Government of a foreign country to a citizen of that country; and

“Zambian Mission” means a High Commission, Embassy or Consular Office of the Zambian Government and includes any other office that the Minister may, by statutory instrument, prescribe.

3. There shall be appointed by the Public Service Commission, as public officers, a Chief Passport Officer and such passport officers as shall be necessary for the proper administration of this Act.

Appointment of Chief Passport Officer and passport officers

Functions of
Chief
Passport
Officer

4. (1) The functions of the Chief Passport Officer under this Act may be exercised and performed by the Chief Passport Officer in person or by a passport officer acting in accordance with the Chief Passport Officer's general or special directions.

(2) In the performance of functions under this Act the Chief Passport Officer shall act in accordance with the direction of the Minister.

Issue of
passport

5. (1) On application being made, the Chief Passport Officer shall, within twenty-one days of receipt of an application for a passport, issue a passport to any citizen of Zambia who satisfies such conditions as the Minister may, by statutory instrument, prescribe.

(2) The application referred to in subsection (1) shall be in the prescribed form and shall be accompanied by the prescribed application fee and such documents as may be prescribed.

(3) Every passport issued under subsection (1) shall be in the prescribed form and shall specify the countries for which the passport is valid.

(4) Subject to section *eight* every passport issued under subsection (1) shall be valid for a period of ten years from the date of issue:

Provided that a passport issued in respect of a child who is below the age of ten years shall be valid for a period of five years from the date of issue.

(6) Any passport issued under subsection (1) may, on application being made, be renewed or endorsed by the Chief Passport Officer as the Chief Passport Officer considers necessary.

(7) The Chief Passport Officer may—

(a) upon the request of an applicant; or

(b) if there is good reason to restrict an applicant to a journey to a specific country or countries;

endorse the passport of such applicant as valid for a specific country or countries as requested or restricted.

(8) Where the Chief Passport Officer restricts the validity of a person's passport to a specific country or countries under subsection (7), the Chief Passport Officer shall record the reasons for such restriction and furnish a report on the matter to the Minister.

Inclusion of
child's
particulars in
parent's
passport

6. (1) Subject to subsections (2) and (3), any person may apply to the Chief Passport Officer, in the prescribed form, for the inclusion of the particulars of that person's child who is under the age of ten years in that person's passport.

(2) Subject to subsections (3) and (4), a child's particulars shall not be included in a parent's passport unless the other parent has given their consent in writing, to the child's particulars being included in the applicant parent's passport:

Provided that the parent whose consent is required in terms of this section shall not unreasonably withhold the consent.

(3) The consent of a parent referred to in subsection (2) shall not be necessary—

(a) if the parent in whose passport the child's particulars are to be included, has been appointed as sole guardian of that child by order of a court; or

(b) where a court has, on an action brought by the applicant parent, made an order dispensing with the need to obtain the consent of the other parent.

(4) Notwithstanding subsection (2), where—

(a) the circumstances of a case so determine; or

(b) it is proved to the satisfaction of the Chief Passport Officer that—

(i) the welfare of a child, whether born within or outside wedlock, has been taken care of solely by the parent who has applied for the particulars of the child to be included in that parent's passport; and

(ii) the parent whose consent would under normal circumstances be required has wilfully failed to provide for the needs of the child;

the Chief Passport Officer may dispense with the requirement for the consent of the other parent.

(5) Where the Chief Passport Officer dispenses with the requirement for consent under subsection (4) the Chief Passport Officer shall record the reasons for the decision to dispense with the consent.

(6) The particulars of a child which are endorsed in that child's parent's passport under this section shall, upon the child attaining the age of ten, be deleted from such parent's passport.

7. (1) Where an application is made for the issue, renewal or endorsement of a passport under section *five*, the Chief Passport Officer may refuse to issue, renew or endorse such passport if the Chief Passport Officer is satisfied that—

(a) the application is in respect of a minor suspected of being taken out of Zambia against an order of a court or against the wishes of the responsible parent;

(b) the applicant has been prohibited by a competent court to hold a Zambian passport;

(c) the applicant has been convicted of a criminal offence and the sentence of the court has not been satisfied or set aside;

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

Refusal to
issue
passport

(e) has previously been repatriated or deported to Zambia, and the reasons for the applicant's repatriation or deportation still stand;

(f) the departure of the applicant from Zambia would be in breach of any international obligation of the Government, particulars of which have been notified to the Government; or,

(g) the applicant is of unsound mind:

Provided that where the person of unsound mind requires the passport for travel to secure medical attention or for such other special circumstances as the Chief Passport Officer may, on the advice of the medical practitioner determine the Chief Passport Officer shall issue a passport.

(2) Where the Chief Passport Officer refuses to issue a passport under subsection (1) the Chief Passport Officer shall, within fourteen days of making the decision, notify the applicant of the decision stating the reasons for the refusal to issue the passport.

Cancellation
of
passport

8. (1) The Chief Passport Officer may cancel the passport of any person on any ground on which the Chief Passport Officer may refuse to issue a passport to that person if the person were an applicant under section *five* and may further cancel the passport of a person who—

(a) ceases to be a citizen of Zambia;

(b) permits another person to use that person's passport;

(c) has obtained the passport or secured the inclusion of the name of a child in the passport through fraud or misrepresentation;

(d) has been repatriated or deported to Zambia or has returned to Zambia at Government expense due to that person's misconduct;

(e) in another country uses the passport to commit a criminal offence which would constitute a criminal offence if the offence were committed in Zambia and is convicted of that offence in that country; or

(f) is deceased.

(2) Where the Chief Passport Officer cancels a passport under subsection (1) the Chief Passport Officer shall, within fourteen days of making the decision to cancel the passport, notify the applicant of the decision stating the reasons for the cancellation of the passport.

9. (1) Any person aggrieved by any refusal of the Chief Passport Officer to issue a passport or travel document or by the cancellation of a passport or travel document may appeal to the Minister not later than thirty days after the notification of such refusal or cancellation.

Appeal against refusal to issue or decision to cancel passport

(2) Where an appeal is made under subsection (1), the Minister may give such directions to the Chief Passport Officer as the Minister may consider necessary to enable the Minister to determine the appeal.

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

(4) Any person who is aggrieved by the decision of the Minister may appeal to the High Court within thirty days of receiving notification of the Minister's decision.

10. (1) The Chief Passport Officer or a passport officer may take and retain possession of any passport in any case where the Chief Passport Officer or the passport officer has reason to believe that the passport is in the wrongful possession of any person or that the passport or a renewal or endorsement of the passport has been obtained by means of fraud or misrepresentation or by means of any statement that is false in a material particular.

Taking possession of passport

(2) Any person who has in that person's possession, or control, a passport referred to in subsection (1) shall, on demand, forthwith deliver it to the Chief Passport Officer or a passport officer.

(3) Any person who fails without reasonable excuse to deliver a passport, on demand, to a Chief Passport Officer or passport officer commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

11. (1) A diplomatic passport may be issued to—

(a) diplomats of the *Zambian Foreign Service*, and their spouses; and

(b) such other persons as the Minister may, by statutory instrument, determine.

Diplomatic passport

(2) The provisions of this Act relating to the issue of passports shall apply with necessary modification to the issue of diplomatic passports under this section.

12. Where for any reason it is desirable to issue a passport of full validity for a journey to a foreign country in circumstances in which a travel document would normally be issued if a journey was made to a Commonwealth country, a passport shall be issued.

Passport may be issued in place of travel document

13. (1) Where it is not reasonably practicable to issue a passport, the Chief Passport Officer may, on application being made, issue a

Issue of travel document

travel document which shall be in such form as may be prescribed.

(2) The provisions of this Act relating to passports shall apply with necessary modification to travel documents issued under subsection (1).

Issue of
travel
documents
to stateless
persons

14. (1) The Chief Passport Officer may on the direction of the Minister issue a travel document to a stateless person for travel to a specified country.

(2) In this section “stateless person” means a person who is not considered as a national by any State under the operation of its law.

Passport
officers to
issue
passports at
Zambian
Missions

15. (1) The Minister may, by statutory order, authorise any passport officer based at a Zambian mission abroad to exercise in the country in which the mission is situated all or any of the powers and functions of the Chief Passport Officer under this Act, and in every such case the provisions of this Act shall apply with necessary modification.

(2) In the exercise of the powers and functions of the Chief Passport Officer under this section, every passport officer shall act in accordance with the general or special directions of the Minister or the Chief Passport Officer.

Person not to
enter or leave
Zambia
without
passport, etc.

16. (1) Subject to subsection (3) a person shall not enter or leave Zambia unless—

(a) the person is in possession of a valid passport or travel document issued under this Act; or

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

(2) Every person entering or leaving Zambia shall, on demand by a passport officer or an immigration officer, produce that person’s passport or other travel document referred to in subsection (1).

(3) Notwithstanding subsection (1), the Minister may, by statutory instrument, exempt, subject to such conditions as the Minister may determine, any person or such class of persons as the Minister may specify from the provisions of subsection (1).

Delivery of
passport

17. (1) Any person who is required to produce a passport or travel document under subsection (2) of section *sixteen* shall if required to do so deliver the passport 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.

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

(3) The Chief Passport Officer or a passport officer may withhold, for such time as may be determined by the Minister, a passport or travel document delivered under subsection (1) on any ground specified in section *seven* if that passport or travel document belongs to a citizen of Zambia.

(4) Any person who fails without reasonable excuse to deliver to the Chief Passport Officer or a passport officer the person's passport or travel document when required to do so commits an offence.

18. (1) Where a passport is lost or stolen the holder of the passport shall—

Replacement
of lost or
stolen
passport

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

(b) file a report on the loss or theft of the passport with the Chief Passport Officer:

Provided that where a passport is lost outside Zambia the holder of the passport shall file a report with the passport officer at a Zambian mission.

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

(a) an application, in the prescribed form, for the replacement of the passport;

(b) a police report issued in response to the report made under paragraph (a) of subsection (1);

(c) an affidavit stating the circumstances under which the passport was lost or stolen; and

(d) the prescribed fee.

(3) The Chief Passport Officer shall if satisfied with the documentation presented in terms of subsection (2) issue the applicant with a new passport:

Provided that the Chief Passport Officer may refuse to issue a new passport where not so satisfied.

(4) Where the Chief Passport Officer refuses to issue the applicant with a new passport under subsection (3) the Chief Passport Officer shall within seven days of making the decision not to issue a new passport notify the applicant of the refusal stating the reasons for such refusal.

(5) Any person aggrieved by any refusal of the Chief Passport Officer to issue a new passport under this section may appeal to the Minister not later than thirty days after the notification of such refusal or cancellation.

(6) Where an appeal is made under subsection (5), the Minister may give such directions to the Chief Passport Officer as the Minister may consider necessary to enable the Minister to determine the appeal.

(7) The Minister in determining the appeal may confirm, vary or set aside the decision of the Chief Passport Officer.

(8) Any person who is aggrieved by the decision of the Minister may appeal to the High Court within thirty days of receiving notification of the Minister's decision.

Offences and
penalties

19. (1) A person who—

- (a) makes any representation or statement which the person knows to be false in a material particular; or
- (b) recklessly makes any statement which is false in a material particular;

for the purpose of obtaining a passport under this Act commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(2) A person who having come into possession of a passport or travel document belonging to another person—

- (a) represents the passport or travel document as belonging to any person other than the person to whom it belongs;
- (b) fails to hand over the passport as soon as practicable to the person to whom it belongs or to the Chief Passport Officer;

commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(3) A person who forges, alters, defaces, destroys, or mutilates any passport or travel document or causes another person to forge, alter, deface, destroy, or mutilate any passport or travel document commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(4) A person, who permits another person to use, for an unlawful purpose, a passport or travel document which belongs to that person or which is under that person's control commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(5) Any person who has in that person's possession a passport or travel document or any part thereof which is forged, altered, defaced, or mutilated or whose particulars are incorrect commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(6) Any person who refuses or fails to return a passport or travel document to the Chief Passport Officer when so requested by the Chief Passport Officer commits an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(7) Any person found in possession of two or more valid passports or travel documents in that person's name commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(8) Any person who sells passport application forms when not entitled to do so commits an offence and shall be liable, on conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term of not less than six months but not exceeding one year, or to both.

(9) Any person who sells blank passports or travel documents commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(10) Any person who procures a passport for, or assists a foreigner to acquire a passport under this Act commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

20. (1) Any person who commits an offence under this Act for which no penalty is provided shall, on conviction, be liable in the case of a first offence, to a fine not exceeding one thousand five hundred penalty units or to imprisonment for a term not exceeding one year and, in the case of a second or subsequent offence, to a fine not exceeding three thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

General
penalty

21. (1) The Minister may make such regulations as the Minister may consider necessary for the proper carrying out of the provisions of this Act.

Regulations

- (2) Without prejudice to the generality of subsection (1), regulations made under this section shall provide for—
- (a) the form of passports, travel documents, or other documents to be used for the purposes of this Act;
 - (b) the manner in which applications are to be made for the issue of a Zambian Passport or travel document, or for the renewal thereof, including—
 - (i) any particulars or information which is to be furnished in the application;
 - (ii) any documents which are to accompany any such application or are to be produced when making any such application; and
 - (iii) any forms which are to be used in any application;
 - (c) the issue, renewal or endorsement of passports or travel documents issued under this Act and the conditions to be satisfied for the issue, renewal or endorsement of such passports, or travel documents;
 - (d) the forms to be used in the application for passports or travel documents under this Act;
 - (e) the fees to be paid for any passport or travel document under this Act;
 - (f) the exemption of any person or class of persons from payment of the fees referred to in paragraph (e); and
 - (g) anything which is to be or which may be prescribed under this Act.

Savings

22. (1) The person who was serving as Chief Passport Officer shall upon the commencement of this Act continue to hold office as if appointed under section *three* of this Act.

(2) Any person who was serving as passport officer shall upon the commencement of this Act continue to hold office as if appointed under section *three* of this Act.

(3) Every 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 have effect as if issued under this Act.
