

## THE PASSPORTS ACT

*Date of Commencement: 12th November, 1971*

*Date of Assent: 3rd November, 1971*

*An Act to make provision for the issue of passports in Swaziland and by Swaziland representatives overseas, and for the production of passports by persons arriving in Swaziland.*

*Short title.*

1. This Act may be cited as the Passports Act, 1971.

*Interpretation.*

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

“Minister” means the Deputy Prime Minister;

“officer” means any officer in the Immigration Department, and includes any officer of customs, any police officer and any person authorized by the Minister to exercise the powers conferred on officers by this Act;

“overseas representative” means a diplomatic representative for Swaziland or a representative of the Government in any other country, and includes a High Commissioner or a Trade Commissioner for Swaziland in any other country;

“passport” means a document which is issued by or on behalf of the Government of any country, and which purports to establish the identity and nationality of the holder for the purpose of facilitating travel abroad;

“Swaziland passport” means a passport or travel document issued by or on behalf of the Government.

*Issue of passports in Swaziland.*

3. (1) The Minister may issue a passport to a citizen of Swaziland.  
(2) Every Swaziland passport shall be issued in the name of His Majesty the King and shall be in the prescribed form.  
(3) Subject to section 14 of the Constitution, a Swaziland passport may be cancelled by the Minister at any time in his discretion, and the passport shall thereupon become void.

*Power to renew and endorse Swaziland passport and grant visa.*

4. (1) The Minister may —
  - (a) renew and endorse a Swaziland passport; and
  - (b) grant a visa on any passport requiring a Swaziland visa.

(2) Any such renewal, endorsement or visa made or granted pursuant to this Act may be cancelled by the Minister in his discretion and at any time, or by an officer authorized by him in that behalf, and thereupon the renewal, endorsement or visa shall be void.

*Offence to obtain passport, etc. by false representation.*

5. Any person who, for the purpose of obtaining a Swaziland passport or a renewal, endorsement or visa in respect of a passport, knowingly makes any false representation or any statement that is false in a material particular shall be guilty of an offence.

*Power to take possession of Certain passports.*

6. (1) The Minister or any officer may take and retain possession of any Swaziland passport in any case where he has good reason to believe that the passport is in the wrongful possession of any person, or that the passport or renewal, endorsement or visa in respect of the passport has been obtained by means of any false representation or of any statement that is false in a material particular.

(2) Any person having in his possession or under his control any such passport shall on demand by an officer forthwith deliver it to the officer.

(3) Any person who fails without reasonable excuse so to deliver any such passport upon demand shall be guilty of an offence.

*Power to issue certificate of identity.*

7. The Minister may issue a certificate of identity or other travel document to a person residing in Swaziland in such form as may be prescribed.

*Minister may authorize issue of passport by Swaziland representative overseas.*

8. (1) The Minister may from time to time by writing under his hand authorize any overseas representative in any other country to exercise in that country all or any of the powers and functions which the Minister is authorized by this Act to exercise in Swaziland and in every such case this Act shall, so far as it is applicable and with the necessary modifications, apply accordingly.

(2) In the exercise of any such powers or functions every overseas representative shall act in accordance with all directions, general or special, given to him by the Minister.

(3) Any authority or direction under this section may be given to a specified person or to persons of a specified class, or may be given to the holder or holders for the time being of a specified office or appointment or class of office or appointment.

*Saving of passport issued, etc.*

9. Any passport and renewal, endorsement and visa in respect of any passport issued, made or granted in Swaziland or by any Swaziland representative in any other country before the commencement of this Act, and generally any act of authority in relation to any such passport, renewal, endorsement or visa which is subsisting or in force at the commencement of this Act shall ensure for the purposes of this Act as fully and effectually as if it had originated under this Act, and accordingly shall where necessary be deemed to have so originated.

*Production of passport by person arriving in Swaziland.*

10. (1) The Minister may make regulations —
- (a) requiring the production of a passport by any person arriving in Swaziland;
  - (b) requiring that any passport so produced shall comply with any condition as to form or contents, or date of issue or visa;
  - (c) exempting, either conditionally or unconditionally, or upon or subject to such conditions as may be subscribed, any person or specified class of person from the requirement to produce a passport or a visa, or from any requirement in relation to any passport or visa produced.
- (2) Any person who is required by any regulation under this section to produce on arrival in Swaziland a passport complying with that regulation and who arrives in Swaziland without complying with such requirement shall be guilty of an offence.
- (3) Subsection (2) shall not apply to any person who has the written authority of the Minister exempting him from the requirements of subsection (2) if, and for so long as, that person conforms to any conditions attached by the Minister to such authority.
- (4) Any person convicted of an offence under this section shall be deemed for all purposes to be a prohibited immigrant within the meaning of the Immigration Act No. 32 of 1964.

*Power to order passport to be delivered.*

11. (1) Any person who is required by any regulation under this Act to produce a passport on arrival in Swaziland shall, if required, deliver his passport to an officer before leaving the vehicle or aircraft in which he enters the country.
- (2) If any such person is allowed to retain his passport he shall, if required by an officer at any time, deliver it to such officer.
- (3) Any passport delivered to an officer in accordance with this section may, subject to any direction of the Minister, be retained by the officer or be returned to the person who delivered it, as such officer thinks fit.
- (4) Should the officer retain the passport beyond a reasonable period the holder of the passport may appeal to the Minister and if dissatisfied with the decision of the Minister may appeal further to the High Court.
- (5) Any person who fails without reasonable excuse to deliver his passport as and when required to do so in accordance with this section shall be guilty of an offence.

*Prevention of certain activities in foreign countries.*

11bis. Any citizen of, or person ordinarily resident in Swaziland shall be guilty of an offence and liable to the penalty set out in subsection (2) if he on or since the 1st January 1977 —

- (a) without the written consent of the Minister responsible for security, joined or joins the armed forces of a foreign country; or
- (b) underwent or undergoes any training in any foreign country, whether in the armed forces of such country or in any organisation or group of persons in any such country undergoing or giving training in any of the skills of warfare, including, but not limited to, the use of explosives, firearms or any weapons

used or useful in any form of warfare or activity in which violence is an element and which is illegal in Swaziland; or

(c) instigates, aids or abets any person to commit any offence referred to in paragraph (a) and (b) hereof.

(2) Any person convicted of a contravention of subsection (1) hereof shall be liable to the same punishment as if he had been convicted of the crime of treason.

(3) The onus of proving that he is not a citizen of, or ordinarily resident in Swaziland, or that he has obtained the written consent of the Minister responsible for security, shall be on an accused person charged with a contravention of subsection (1) hereof.

(Added K.O-I-C. 25/1977.)

*Prevention of departure from Swaziland without passport or similar document.*

11ter. (1) Notwithstanding any other law a citizen of, or a person ordinarily resident in Swaziland shall be guilty of an offence if he leaves, or left, Swaziland on or since the 1st day of January, 1977, without being in possession of a valid passport, document of identity or travel document issued to him under the provisions of this Act or the Identity and Travel Documents Act, No. 54 of 1959, or a passport or similar document recognised by the Minister and issued by a foreign country.

(2) Subject to subsection (3) any person convicted of an offence under subsection (1) shall be liable to a fine of five hundred emalangenis or two years imprisonment.

(3) Any person who contravenes subsection (1) with the intention of committing any of the acts referred to section 11bis shall be liable to the same punishment as if he had been convicted of the crime of treason, and the onus of proving that he did not so intend shall be on the accused person charged with such contravention.

(Added K.O-I-C. 25/1977.)

*Regulations.*

12. The Minister may make regulations for any purpose for which regulations are contemplated by this Act, and may make all such other regulations as, in his opinion, are necessary or expedient for giving full effect to this Act, and for the due administration thereof.

*Fees.*

13. Such fees as may be prescribed shall be payable in respect of the issue of any Swaziland passport and in respect of any other matters arising out of this Act.

*Penalties.*

14. Any person who commits an offence under this Act shall be liable on conviction to a fine not exceeding five hundred emalangenis or imprisonment not exceeding two years, or both.