

THE UNITED REPUBLIC OF TANZANIA

ACT SUPPLEMENT

No. 8

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THE IMMIGRATION (AMENDMENT) ACT, 2015

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THE UNITED REPUBLIC OF TANZANIA



NO.8 OF 2015

I ASSENT,

JAKAYA MRISHO KIKWETE

*President*11th May, 2015

**An Act to amend the Immigration Act and various laws relating to
administration of the Tanzania Immigration Service.**

[.....]

ENACTED by Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short title

1. The Act may be cited as the Immigration
(Amendment) Act, 2015.

PART II
AMENDMENT OF THE IMMIGRATION ACT
(CAP.54)

- | | |
|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Construction
Cap. 54 | 2. This Part shall be read as one with the Immigration Act hereinafter referred to as the “principal Act”. |
| General
amendments | 3. The principal Act is amended by deleting the word “Director” wherever it appears in the Act and substituting for it the word “Commissioner General”. |
| Amendment of
section 3 | 4. The principal Act is amended in section 3 by- <ul style="list-style-type: none"> (a) deleting the definition of the term “child” and substituting for it the following definition- <ul style="list-style-type: none"> “child” has the meaning ascribed to it- <ul style="list-style-type: none"> (a) in the case of Mainland Tanzania, under the Law of the Child Act; and (b) in the case of Tanzania Zanzibar, under the Children’s Act;”; (b) deleting the phrase “a chairman of the peoples’ court” appearing in the definition of the term “Magistrate” and substituting for it the phrase “Regional Magistrate”; (c) adding in their appropriate alphabetical order the following new definitions- <ul style="list-style-type: none"> ““Commission” means a Commission established under section 4 of the Police Force and Prisons Service Commission Act; |

Cap. 13

Act No 6
of 2011

Cap. 241

“court” means a court of competent jurisdiction;

“Commissioner General” means the Commissioner General of Tanzania Immigration Services Department appointed in terms of section 5 (1) of this Act;

“Department” means the Tanzania Immigration Services Department established under section 4 of this Act;

“Gazetted Officer” means an officer of the Tanzania Immigration Services Department of the rank of, or above the rank of assistant inspector;

“Immigration Officer” means an Officer of the Department of a rank as specified under this Act, and includes the Commissioner General; and

“Non Commissioned Officer” means any Officer of the Department of the rank of, or below the rank of Sergeant Major;”.

Amendment of
Part II

5. The principal Act is amended by repealing the whole of Part II and substituting for it the following-

“PART II
THE IMMIGRATION SERVICE
DEPARTMENT

Establishment
of Immigration
Service
Department

4.-(1) There is established, in the Ministry responsible for Home Affairs, a department known as the Tanzania Immigration Services Department.

(2) The Office of the Director of Immigration Services designated as such prior to the establishment of the Department is hereby converted to be the Department.

Appointment
of
Commissioner
General

5.-(1) There shall be a Commissioner General of the Department who shall be appointed by the President.

(2) The Commissioner General shall be the chief executive officer of the Department.

Officers of the
Department

6. Tanzania Immigration Service Department shall consist of the following officers-

- (a) Gazetted
Immigration Officers
who shall be-
- (i) Commissioner
General;
 - (ii) Deputy
Commissioner
General;
 - (iii) Commissioners;
 - (iv) Deputy Commissioners;
 - (v) Senior Assistant
Commissioners;
 - (vi) Assistant Commissioners;
 - (vii) Senior Superintendents;
 - (viii) Superintendents;
 - (ix) Assistant Superintendents;
 - (x) Inspectors;
 - (xi) Assistant Inspectors; and
- (b) Non-Commissioned
Immigration Officers
who shall be-
- (i) Sergeant Major;
 - (ii) Staff Sergeant;
 - (iii) Sergeant;
 - (iv) Corporal; and
 - (v) Constable.

Appointment
of officers

7.-(1) The Deputy
Commissioner General,
Commissioner, Deputy
Commissioner and Senior
Assistant Commissioner shall

be appointed by the President.

(2) Immigration officers from the rank of Assistant Inspector to the rank of Assistant Commissioner shall be appointed by the Commission.

(3) Immigration officers of the rank of, or below Sergeant Major shall be appointed by the Commissioner General.

Regions,
Districts and
entry or exit
points

8.-(1) The Department shall be divided into Regions, Districts, entry or exit points and border posts as the Minister may determine.

(2) The responsibilities of the heads of each Region, District and entry or exit point office shall be to-

- (a) co-ordinate and manage all immigration matters within their area of jurisdiction;
- (b) advise the Government into their area of jurisdiction regarding matters pertaining to immigration;

-
- (c) collaborate and participate on security matters within their area of jurisdiction;
 - (d) mobilize and sensitize the general public within their area of jurisdiction on immigration in relation to security and development;
 - (e) prepare, organize and supervise working situation report within their area of jurisdiction;
 - (f) facilitate and control immigration activities within their area of jurisdiction; and
 - (g) undertake any such other responsibility as the Commissioner General may direct.

Administration
of the Service

9.-(1)The Commissioner General shall, subject to this Act and directives of the President have command, superintendence and

control of the Department.

(2) The Commissioner General shall, in the exercise of powers vested to him regarding the operational control of the Department, and subject to the orders, directions and guidance by the Minister, be responsible and accountable to the President.

Delegation of
powers

10.-(1) A Commissioner may, unless otherwise provided under any written law, exercise powers or discharge duties of the Commissioner General.

(2) The Commissioner General may, unless otherwise directed by the Minister, authorize any immigration officer of the rank of, or above Senior Superintendent, whether by name or office, to exercise or discharge any of the powers or duties which the Commissioner General is by law entitled to exercise or discharge.

(3) Nothing in this section shall be deemed to derogate the powers or duties of the Commissioner General.

Disciplinary
authority and
procedure

11.-(1) The disciplinary authority of the officers appointed under section 7(1) shall be the President.

(2) The disciplinary authority of the officers appointed under section 7(2) shall be the Commission.

(3) The disciplinary authority of the officers appointed under section 7(3) shall be the Commissioner General.

(4) The disciplinary procedure for officers referred to under subsection (3) shall be as prescribed in the regulations made under this Act.

PART III POWERS, RIGHTS AND DUTIES OF IMMIGRATION OFFICERS

General duties
of the Service

12.-(1) The general duties and responsibilities of immigration officers shall be to-

- (a) manage and monitor entry and exit of migrants;
- (b) safeguard national borders;
- (c) facilitate and manage movement of foreigners wishing to enter, stay and reside in the United Republic of Tanzania.

- (d) facilitate, control and grant citizenship to qualified alien immigrants;
- (e) counter any event which might be done by a foreigner or any other person that might jeopardize security and economic development and sustainability;
- (f) investigate national and transnational immigration crimes;
- (g) cooperate with other security organs in the maintenance of national security;
- (h) participate in regional integration with a view to identify illegal migrants;
- (i) facilitate and assist the issuance of national identity cards;
- (j) coordinate with regional and international agencies in the prevention of transnational organized crime;
- (k) monitor and coordinate immigration activities outside the United Republic of Tanzania;

- (l) combat illegal immigrant by cooperating with immigration departments of other countries and international organization that deals with immigration matters;
- (m) cooperate with embassies, consulates, airlines and other checkpoint stakeholders with a view to sharing or exchange of information relating to fraud activities;
- (n) conduct operations with a view to combat illegal immigrants and crimes relating to immigration;
- (o) conduct public awareness campaign on problem and danger of transnational organized crimes;
- (p) remove all prohibited, unwanted or undesirable immigrants;
- (q) register all alert listed persons and make follow-ups of all frequenters for security reasons;

- (r) receive deported Tanzanians and take appropriate legal measures against such deportees;
- (s) conduct patrols and investigation;
- (t) subject to the instrument of appointment by the Director of Public Prosecution, prosecute offences relating to immigration; and
- (u) perform any other functions as may be conferred on the Department by or under any other written laws.

(2) Save as provided for under subsection (1), officers of the Department shall, upon directives by Commissioner General, execute immigration functions in every accredited Tanzania Mission or Embassy.

General
obligation of
immigration
officer

13. An immigration officer shall be bound to serve anywhere within the United Republic of Tanzania and may serve in any country or other places in accordance with the exigencies of the Department.

General right
of the
immigration
officer.

14. An immigration officer shall, in performing of his duties, have the rights as may be prescribed in the regulations.

Non disclosure
of information.

15. An immigration officer shall not disclose directly or indirectly immigration information to any person unless:

(a) it is vital for any proceeding of a court and it has been requested for that purpose; or

(b) it is requested by the Minister or any other authorized person.

Powers to
investigate and
make inquiry

16. An immigration officer shall have powers to investigate and make inquiry on any person who has contravened or he has reasonable cause to believe that the person is or about to contravene any provisions of this Act or any other written law.

Powers of
arrest and
detention

17.-(1) An immigration officer may, without warrant, arrest any person who has committed or who has reasonable cause to believe is about to commit an offence under this Act or any other written laws, provided that the person arrested under this section shall be brought before a magistrate as soon as is practicable.

(2) An immigration officer shall not use excessive force in exercising the powers conferred by subsection (1).

(3) An immigration officer of or above the rank of Superintendent may order the detention of any person in a lawful custody who is subject to an order of extradition, prohibited immigrant notice or deportation issued pursuant to this Act.

(4) Where an immigration officer has, in terms of subsection (3) ordered the detention of any person, he shall fill in a warrant of detention in the prescribed form in respect of such person and forward it to the officer in-charge of the police station or prison in which such person is to be detained.

Powers of
search and
seizure

18.-(1) An immigration officer shall have powers to seize, remove and detain anything which contains or appears to him to be or to contain or likely to contain evidence to prove the commission of an offence under this Act or any other written laws.

(2) For the purpose of exercising powers and performing duties under this Act, an immigration officer may-

- (a) without warrant, stop, enter, board and search any person, aircraft, train, vehicle, vessel, ship, building, premises, godown, container, boat or any part thereof, in the United Republic of Tanzania;
- (b) without a search warrant, stop, enter, board and search any aircraft, train, vehicle, vessel, ship or any part thereof leaving or entering the United Republic of Tanzania in regard to goods carried therein; and
- (c) require the in-charge of an aircraft, vehicle, train, vessel or ship arriving to or leaving the United Republic of Tanzania, to furnish a list of passengers and crew in the aircraft, vehicle, train,

vessel or ship as the case may be together with such other information as may be prescribed.

(3) Any person who:

(a) obstruct or impedes an immigration officer under subsection (2); or

(b) refuses to give or gives false information to an immigration officer,

commits an offence and is liable upon conviction, to a fine of not less than one million shillings or to imprisonment for a term of not less than twelve months, or to both.

(4) Where anything is seized in pursuance of the powers conferred by this section, the immigration officer shall issue a receipt acknowledging the seizure

bearing the signature of the owner of the thing and those of witnesses to the search, if any.

(5) Where a seizure is effected under this section, any articles, documents and other things seized shall, by order of the court, be confiscated.

Entitlement to carry and use arms

19. An immigration officer shall be entitled to use arms in the exercise of his functions, duties or powers conferred to him under this Act.

Recording of statement

20.-(1) Notwithstanding the provisions of any other written laws, an immigration officer shall have the same powers conferred upon a police officer under the Criminal Procedure Act, to examine any person acquainted with the facts and circumstances under investigation and reduce into writing any statement made by such person so examined for the purpose of criminal proceedings.

Cap. 20 and Act No. 7 of 2004 of Zanzibar

(2) In exercise of powers under subsection (1), the immigration officer shall record testimony of a suspect and witness by means of video, still picture and audio technology.

Conditional
release

21.-(1) Subject to any direction by the Minister, a person under custody or detention may be granted conditional release in the manner and form prescribed by regulations.

(2) Where a person fails to comply with any of the conditions under which a conditional release is issued, an immigration officer may, without warrant arrest and detain that person into custody.

Powers of
refusal of entry

22. Where an immigration officer, after examining a person seeking to enter into the United Republic of Tanzania, is of the opinion that the entry of such person into the United Republic of Tanzania is contrary to the provision of this Act or any

other written law, he may-

- (a) issue him an order of refused entry; or
- (b) cause such person to be detained pursuant to section 17 (3) and (4) of this Act pending the removal of such person from the United Republic of Tanzania.”

Amendment of
section 31

- 6.** The principal Act is amended in section 31 by-
- (a) deleting the words “not exceeding one” appearing in subsection (2) and substituting for them the words “ not less than five”;
 - (b) deleting the words “not exceeding two hundred fifty thousand” appearing in subsection (3) and substituting for them the words “not less than one million”; and
 - (c) deleting the words “not exceeding three hundred thousand” appearing in subsection (4) and substituting for them the words “not less than one million five hundred thousand”.

Amendment of
section 33

- 7.** The principal Act is amended in section 33 by-
- (a) adding immediately after paragraph (q) of subsection (1) the following new paragraph-

- (r) providing for-
- “
- (i) discipline and punishment of the Department;
 - (ii) administration and command of the Department; and
 - (iii) description of emblem, uniforms, equipment and rank specifications to be provided for the purpose of the Department;” and
- (a) deleting subsection (2) and substituting for it the following-
- “(2) Regulations under paragraph (a) to (q) of subsection (1) may impose, for their breach, penalties of not less than three hundred thousand shillings or to imprisonment for a term not exceeding three years, or to both.”

Renaming of
Part III to VI

8. The principal Act is amended by renaming Part III, IV, V and VI as Part IV, V, VI and VII respectively.

Renumbering
of sections

9. The principal Act is amended by renumbering section 10 to 38 as section 23 to 51 respectively.

PART III CONSEQUENTIAL AMENDMENTS

Amendment of
the Anti-
Trafficking in
Persons Act
(Cap. 432)

10. The Anti-Trafficking in Persons Act is amended in section 31 by deleting the words “who holds or have held the office of a Director of Immigration”

appearing in subsection (1) and substituting for them the words “who have held the office of a Director of Immigration or who holds or has held the office of Commissioner General of Immigration Service Department.

Amendment of
the Police Force
and Prisons
Service
Commission Act,
(Cap 241)

11. The Police Force and Prisons Service Commission Act, is amended-

- (a) in the long title by inserting the word “Immigration” between the words “Police” and “and”;
- (b) by inserting the words “,Tanzania Immigration Service Department” between the words “Police Force” and “and”;
- (c) by inserting the words “,Tanzania Immigration Service Department” between the words “Police Force” and “and” wherever they appear in the principal Act;
- (d) by inserting the words “,Immigration” between the words “Police” and “and” wherever they appear in the principal Act;
- (e) in section 3(4) by inserting the words “Commissioner General of Immigration Service Department” between the words “Inspector-General of Police” and “and”;
- (f) in section 4(2) by-
 - (i) inserting immediately after paragraph (e) the following-
 - (aa) the Commissioner General of Tanzania Immigration Service Department; and

-
- (bb) the Commissioner of Immigration, Zanzibar;
 - (ii) renaming paragraphs (f) and (g) as paragraphs (h) and (i) respectively;
 - (iii) inserting immediately after the renamed paragraph (i) the following-
 - (aa) the Commissioner of Immigration in-charge of legal services; and
 - (bb) the Commissioner of Immigration in-charge of administration and finance;
 - (iv) renaming paragraphs (h), (i), (j) and (q) as paragraphs (l), (m), (n) and (o) respectively; and
 - (g) in section 6(4) by inserting the words “,Commissioner General of Immigration Service Department” between the words “Inspector-General of Police” and “and”;
 - (h) in section 7 by-
 - (i) inserting the words “Commissioner General of Immigration Service Department” between a comma (,) and the words “the Principal Commissioner” appearing in subsection (4); and
 - (ii) inserting the words “,Commissioner General of Immigration Service Department” between the words “Inspector-General of Police” and “and” appearing in subsection (5).

Amendment of
the Prevention of
Terrorism Act,
(Cap. 19)

12. The Prevention of Terrorism Act is amended by deleting the phrase “the Principal Commissioner of Immigration” appearing in section 45 and 46 respectively and substituting for it the phrase “Commissioner General of Tanzania Immigration Service Department”.

Amendment of
the Refugees Act
(Cap. 37)

13. Amendment of the Refugees Act is amended in section 6 by deleting the title “Director of Immigration Services” appearing in subsection (1)(b)(vii) and substituting for it the phrase “Commissioner General of Tanzania Immigration Service Department.”

Amendment of
the Tanzania
Citizenship Act,
(Cap. 357)

14. Amendment of the Tanzania Citizenship Act is amended-

(a) in section 3 by-

- (i) deleting the definition of the term “Director”; and
- (ii) adding in the appropriate alphabetical order the following new definition-

“Commissioner General”
means the
Commissioner General
of Tanzania
Immigration Services
Department appointed
under the Immigration
Act;

Cap.54

- (b) by deleting the word “Director” wherever it appears in the Act and substituting for it the word “Commissioner General”; and

(c) by adding immediately after section 64 the new section 64A-

“Verification
of citizenship

64A-(1) The Commissioner General may, where circumstances require and within specified time, request a person to furnish to him certain documents or information for purposes of determination or verification of such person’s citizenship.

(2) The powers of the Commissioner General under subsection (1) may be exercised by an immigration officer or an authorised officer.

(3) Where powers of the Commissioner General are exercised by an authorised officer, the powers shall be limited to matters relating to registration and identification of persons as provided for under the Registration and Identification of Persons Act.

(4) The words “authorised officer” as used in this section means a registration officer or an

assistant registration officer.”.

Amendment of
the Tanzania
Passports and
Travel
Documents Act

15. Amendment of the Tanzania Passports and Travel Documents Act is amended-

(a) in section 2 by-

(i) deleting the definition of the term “Director”;

(ii) deleting the definition of the term “department” and substituting for it the following new definition-

““department” means the Tanzania Immigration Service Department established under the Immigration Act;”; and

(iii) adding in the appropriate alphabetical order the following definition-

““Commissioner General” means the Commissioner General of Tanzania Immigration Services Department appointed under the Immigration Act;”

“Cap 54

(b) by deleting the word “Director” wherever it appears in the Act and substituting for it the words “Commissioner General”.

Passed in the National Assembly on the 26th March, 2015.

THOMAS D. KASHILILAH

Clerk of the National Assembly