

LESOTHO
ALIENS CONTROL ACT 1966

No. 16 of 1966

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1. Short title and commencement.

This Act may be cited as the Aliens Control Act 1966 and shall come into operation on a date to be fixed by the Minister by Notice, which shall be published in the Gazette. Different dates may be so fixed for the coming into operation of any of the provisions of this Act.

2. Interpretation.

(1) In this Act unless inconsistent with the context -

"alien" means (subject to the transitional provisions of subsection (3) of section thirty-seven) a person who is not a citizen of Lesotho;

"Authorized officer" means a person having the powers and duties of an authorized officer under the provisions of section four;

"Chief" and "Headman" means, respectively, a Principal Chief, a Ward Chief and any other Chief, and a Headman, whose office is established by the Constitution or by or under any other law including Basuto customary law, and references to a Chief or Headman are references to the person who, under the law including Basuto customary law, for the time being in force in that behalf, is recognized as entitled to exercise the

functions of the office of that Chief or Headman;

"indefinite permit" means a permit under section six, and includes a document having the effect of such a permit under provision of this Act;

"leave" in relation to entering, landing in, departing from or embarking in Lesotho, means leave granted by an authorized officer under section eleven;

"member of the crew" means, in relation to an aircraft, any person actually employed in the working or service of the aircraft including the commander of the aircraft;

"member of the police force" includes a person appointed to act as a special constable under the provisions of section thirty-five of the Police Proclamation;

"passenger" means any person travelling or seeking to travel, who is not a member of the crew;

"prescribed" means prescribed by regulations made under section thirty-six;

"registration area" and "registering officer" have the meanings assigned by sections four and eighteen;

"temporary permit" means a permit under section seven, and includes a document having the effect of such a permit under any provision of this Act;

"unlawful" in relation to the entry of an alien or the presence of an alien, means his entry into, or his presence in, Lesotho in contravention of a provision of this or any other law, whether enacted before or after this Act and whether or not that law expressly provides that such entry or presence shall be unlawful;

"wife" in relation to an alien under whose personal law more than one marriage validly exists, means, subject to the provisions of subsections (2) and (4) one woman between whom and such alien there exists a union recognised as a marriage under the personal law of that alien, and "child" means a child under the age of sixteen years who is the offspring of the said alien and the wife as herein defined, or the child of the said alien and a deceased woman who, if she had been alive, could have been recognised as the wife

herein defined, and shall further include a step-child and an adopted child and, in relation to the mother, an illegitimate child.

(2)The Minister may, by order under his hand, direct that the definition of "wife" in subsection (1) shall be modified in respect of all or any specified provisions of his Act, in relation to a specified alien, to include more than one woman between whom and that alien, there exists a union recognised as a marriage under the personal law of that alien, and may in the like manner direct the modification of the definition of "child" in that subsection in respect of a child of a woman in respect of whom an order has been made under this subsection. The provisions of this Act, or those provisions thereof that are specified in an order made under this subsection, shall for so long as that order remains in force, apply to a person affected thereby as if this Act had been amended in accordance with the provisions of that order.

(3)Subject to the provisions of subsection (9) of section thirty-seven, references in this Act to the Minister shall be construed as references to the Minister of Motlotlehi's, Government for the time being responsible for the administration of this Act. If the Minister has delegated any power assigned to him by this Act in pursuance to the provisions of section eight of the General Interpretation Proclamation as amended, a reference in this Act to the Minister in relation to that power shall be construed as if it included a reference to the public officer to whom that power has been so delegated.

(4)Nothing in this Act shall be construed as conferring on any person any right which he does not enjoy apart from this Act, to enter and sojourn in Lesotho.

(5)For the purposes of this Act a valid passport is a passport or other document of identity recognised by the Minister -

(a) which refers to the person producing it; and

(b)which is furnished with a photograph of such person; and

(c) which was issued to him by or on behalf of a Government recognised by the Government of Lesotho; and

(d) which shows the bearer to be a citizen or subject of that country; and

(e) which is valid for a period which, according to the laws of that country, has not expired; and

(f) which, except when a visa is dispensed with in pursuance of an arrangement to which the Government of Lesotho is a party, bears the visa or endorsement of a person authorized by or on behalf of the Government of Lesotho to place visas or such endorsements upon passports permitting entry into or transit through Lesotho.

Part I - APPLICATION AND ADMINISTRATION OF ACT, REGULATION OF SOJOURN OF ALIENS, AND PERMITS

3. Application of Act

(1) The provisions of section six and seven and Parts II and III shall not apply, except as otherwise provided therein—

(a) to an alien who is at the material time in the service of the Government of Lesotho;

(b) to a representative of any government, state or public international organization who is at the material time authorized with the consent of the Government of Lesotho to represent the same in relation to Lesotho, any alien officer of such government, state or public international organization authorized with the like consent to act in relation to Lesotho, and the alien members of the staff and the alien servants of such a representative or officer, to the extent to which the Government of Lesotho consents to their sojourn in Lesotho; and

(c) to the alien wife and alien children of any alien specified in paragraphs (a) and (b), to the extent that the Government of Lesotho consents to the sojourn of that alien in Lesotho, or while that alien is in the service of the Government of Lesotho.

(2) If an alien mentioned in subsection (a) ceases, while he is in Lesotho, to be in any category of persons described in that paragraph by reason of the withdrawal or expiry of the consent of the Government of Lesotho or otherwise, then unless the Minister has granted him permission to remain in Lesotho during such period and on such conditions as the Minister may determine, his presence in Lesotho after the cessation as aforesaid shall be unlawful and he may be removed from Lesotho in accordance with the provisions of Part IV, which relates to the expulsion of

aliens.

(3) If an alien to whom the Minister has, under subsection (2) of this section, granted permission to remain in Lesotho during a stated period and subject to any condition, remains in Lesotho after the expiration of such period or contravenes or fails to comply with such condition, his presence in Lesotho shall unless made lawful under this or any other law, be unlawful and he may be removed from Lesotho in accordance with the provisions of Part IV which relates to the expulsion of aliens.

4. Authorised officers and registering officers.

(1) For the purposes of this Act every Chief and Headman and every member of the police force of or above the rank of sergeant shall have the powers and perform the duties assigned to an authorized officer by or under this Act.

(2) The Minister may by Notice, which shall be published in the Gazette, appoint persons by name or by office to be authorized officers and every such person shall have the powers and perform the duties assigned to an authorized officer by or under this Act. The Minister may likewise appoint registering officers for the purpose of section eighteen.

(3) The Minister may, in a Notice under the preceding subsection, subject an authorized officer or registering officer to the direction of another authorized or registering officer respectively specified in the Notice.

(4) The Minister shall have the power to remove, suspend, dismiss, re-appoint or re-instate any person who has the powers and duties of an authorized or registering officer by virtue of the provisions of this section.

(5) The Minister shall, in respect of Chiefs and Headmen, exercise his powers under this section subject to the provisions of the Constitution and any other law relating to the offices and functions of Chiefs and Headmen.

(6) The Minister shall, in respect of public officers, exercise his powers under this

section subject to the provisions of the Constitution and any other law relating to the public service.

(7) Nothing contained into his section or done in pursuance of the provisions of this section shall affect the office or functions of a Chief or Headman under any other law.

5. Restriction of entry, presence and sojourn of aliens.

(1) No alien shall enter Lesotho or be or remain there for the purpose of permanent residence.

(2) Subject to the provisions of sections three and thirty-eight no alien shall enter Lesotho or be or remain there -

(a) for the purpose of indefinite sojourn therein, unless he is in possession of a permit for the said purpose, issued in terms of section six; or

(b) for the purpose of temporary sojourn therein unless he is in possession of a temporary permit issued in terms of subsection (1) of section seven or unless he has been permitted to enter under section nine;

(c) for the purpose of travel therein or for the purpose of a visit for private, business or official purposes unless he is in possession of a valid passport.

(3) Subject to the provisions of sections three and thirty-eight if an alien is found in Lesotho and he is not in possession of an indefinite permit or a temporary permit or has not been permitted to enter under section nine or is not in possession of a valid passport or if the period of his visit under paragraph (c) of subsection (2) as endorsed on a valid passport, has expired, his presence in Lesotho shall be unlawful for the purposes of Part IV, which relates to the expulsion of aliens.

6. Permit for indefinite sojourn.

(1) An application by an alien for a permit to enter Lesotho for the purpose of indefinite sojourn therein shall be made before his entry into Lesotho, in the form and manner prescribed by regulation, shall contain the information for which provision is made in the said form and shall be submitted to the Minister in a manner and by means prescribed by regulation. Such a permit is therein called an indefinite permit.

(2) The Minister shall consider every such application submitted to him as aforesaid in accordance with the principles set out in the First Schedule, and may obtain from any source such additional information relating to the applicant as he may deem necessary.

(3) The Minister may, in accordance with the principles set out in the First Schedule, authorise or decline to authorise the issue of an indefinite permit, subject to such conditions as he may determine in the public interest, to an alien by whom or on behalf of whom an application therefore has been made as aforesaid. The Minister may authorize, in accordance with the same principles and subject to similar conditions, the issue of a similar permit to the wife and to any child of that alien who is under the age of twenty-one years and to any person in the employ of that alien. The Minister may, instead of authorising the issue of an indefinite permit, authorise the issue of a temporary permit to an alien to whom an application made under subsection (1) refers.

(4) If the Minister has authorised the issue of an indefinite permit, an officer of the public service, designated in that behalf by the Minister subject to the law relating to the public service, shall issue the indefinite permit, which shall be in the form prescribed by regulation, and which shall contain the conditions (if any) determined by the Minister. Upon the issue to an alien of such a permit, that alien may, subject to the provisions of section ten, sojourn indefinitely in Lesotho.

(5) The Minister may, on an application mentioned in subsection (1) of this section made by an alien who has been allowed under this Act or under any other law, to enter, be, or remain in Lesotho, authorise, subject to such conditions as he may determine in the public interest, the issue to him of an indefinite permit or temporary permit mutatis mutandis as if he were outside Lesotho, and upon the issue of an indefinite permit that alien may, subject to the provisions of section ten and those conditions, sojourn indefinitely in Lesotho.

7. Permit for temporary sojourn.

(1) On an application for temporary sojourn made by an alien before his entry into Lesotho in the form and manner prescribed by regulations, or on the authority of the Minister for the issue of a temporary permit given in pursuance of the provisions of subsection (3) or subsection (5) of the preceding section, and if that alien has complied with all requirements prescribed by regulation, an authorised officer may, in accordance with the principles set out in the First Schedule issue or (except where the Minister has authorised the issue of a temporary permit under the preceding section) decline to issue to him a permit to enter Lesotho and to sojourn therein temporarily for such purposes, during such period, and on such conditions as have been prescribed by regulation, or as may have been determined by the Minister in the public interest in pursuance of the provisions of subsection (3) or subsection (5) of the preceding section, or as may have been determined by the Minister in the public interest in relation to an application by an alien under this section. Every such condition shall be set forth in the permit, which is herein called a temporary permit.

(2) When an authorised officer issues a temporary permit to an alien, he may, subject to the directions of the Minister and in accordance with the principles set out in the First Schedule and subject to similar conditions, issue a similar permit to his wife and to any child or his who is under the age of twenty-one years and to any person in the employ of that alien, if the wife, child or employee accompanies that alien.

(3) The Minister may from time to time extend the period for which a temporary permit was issued or alter the purposes for which or the conditions on which it was issued, but subject to the regulations prescribing the said period, purposes or conditions.

(4) The Minister may, in accordance with the principles set out in the First Schedule, if application is made to him by an alien who has been allowed under this act or under any other law, to enter, be, or remain in Lesotho, authorise or decline to authorise, the issue to him of a temporary permit *mutatis mutandis* as if he were outside Lesotho and upon the issue of that permit he may, subject to the provisions of section ten and the conditions of the temporary permit, sojourn temporarily in Lesotho.

(5) An alien to whom a temporary permit has been issued who remains in Lesotho after the expiration of the period, or an extension of that period under subsection (3) of this section, for which the permit was issued, shall be guilty of an offence and liable on conviction to the penalty prescribed in section thirty-three. The presence of such an alien in Lesotho shall be unlawful for the purposes of Part IV of this Act, which relates to the expulsion of aliens.

8. Saving in respect of laws restricting movement of persons.

A permit issued in terms of section six or section seven shall not exempt the holder thereof from the provisions of this or any other law which imposes restrictions to the extent permitted by the Constitution on the movement or residence within Lesotho of any person or any person's right to leave Lesotho, or which imposes restrictions on the freedom or movement of any person.

9. Exemption of distinguished visitors and others.

(1) If the Minister, in accordance with the principles set out in the First Schedule, is satisfied that an alien who desires to enter Lesotho is a person to whom this section applies and that he has no intention to reside permanently or indefinitely in Lesotho, he may permit the said person and the wife and any child of the said person and any person in his employ to enter and be temporarily in Lesotho without holding any permit under this Act or any other law, but subject to any condition that the Minister may determine in the public interest, and to the provisions of section ten.

(2) This section shall apply to a distinguished visitor, a regular visitor for business or official purposes, an employee or officer of any Government or Public Corporation, and a director, officer or employee of a firm engaged in work in Lesotho under contract with the Government of Lesotho.

10. Cancellation of permits.

(1) If an indefinite permit has been issued on an application which contains any incorrect information, or if the holder of such permit or his agent has furnished

any incorrect information in connection with that application, or if the holder of such a permit, in the opinion of the Minister formed in accordance with the principles set out in the First Schedule, should no longer sojourn in Lesotho, the Minister may direct that a notice in writing be addressed to the holder of the permit, whereby that permit is cancelled and whereby he is ordered to leave Lesotho within a period stated in the notice and upon the expiration of that period that permit shall become null and void and that person's presence in Lesotho shall thereupon become and be unlawful for the purposes of Part IV, which relates to the expulsion of aliens.

(2)The Minister may, in accordance with the principles set out in the First Schedule, at any time direct that a notice in writing be addressed to the holder of a temporary permit whereby that permit is cancelled and whereby that holder is ordered to leave Lesotho within a period stated in the notice and upon the expiration of that period that temporary permit shall become null and void and that person's presence in Lesotho shall thereupon become and be unlawful for the purposes of Part IV, which relates to the expulsion of aliens.

(3)The Minister may, in accordance with the principles set out in the First Schedule, at any time direct that any person who has been permitted to enter Lesotho in terms of section nine be ordered by notice in writing to leave Lesotho within a period stated in that notice and that person's presence in Lesotho shall thereupon become and be unlawful for the purposes of Part IV, which relates to the expulsion of aliens.

Part II - ENTRY AND DEPARTURE

11. Ports of entry and departure.

(1)The Minister may by notice in the Gazette appoint places to be ports of entry and departure for Lesotho, at or through which alone aliens may enter, depart, land or embark, and may in such a notice designate the times at which authorised officers will be in attendance at such ports.

(2)Subject to the provisions of sections three and thirty-eight no alien shall enter or land in, depart from or embark in Lesotho except with the leave of an authorised officer, who may, subject to the provisions of this subsection, grant that

leave subject to conditions notified to the alien. No alien shall so enter, land, depart or embark elsewhere than at or through a port of entry or departure between such hours as may be prescribed under subsection (1) or at such other times and places as the Minister may in any particular case allow. Leave under this subsection to enter or land shall not be refused in the case of an alien who has a right, authority or permission under any provision of this Act so to enter or land, and no condition imposed under this subsection in relation to leave, to enter or land shall be inconsistent with the conditions applicable to any such right, authority or permission, or otherwise than is necessary for the due administration of this Act and the regulations, or for the enforcement of any other law. Leave to depart or embark shall in no case be refused, and no condition shall be imposed in relation to leave to depart or embark, save to the extent that is necessary for the administration of this Act and the regulations, or for the enforcement of any other law.

(3) Subject to the provisions of section three and thirty-eight, an alien who enters, lands in, departs from or embarks in Lesotho otherwise than at or through a port of entry and departure appointed under this section, shall be guilty of an offence and liable on conviction to the penalty prescribed in section thirty-three.

12. Entry.

(1) Notwithstanding that a person is not an alien, or is an alien who is excluded or exempted from the application of any provision of this Act, an authorised officer may exercise in respect of that person, any of the powers conferred upon him or under this Act in relation to aliens in so far as the exercise of that power is necessary to determine whether that person is not an alien or whether that person is otherwise excluded or exempted from the application of any provision of this Act.

(2) An authorised officer may examine any alien who arrives in Lesotho as a member of the crew of any train, aircraft, or vehicle, whether or not he enters or lands or seeks to enter or land in Lesotho, and such an alien may be required to submit to examination at any time before the train, aircraft or vehicle has left Lesotho.

(3) An authorised officer may by notice given at the time to an alien who has arrived in Lesotho as a member of the crew of a train, aircraft or vehicle, prohibit

that alien from leaving or landing from that train, aircraft or vehicle while it remains in Lesotho unless authorised to do so by an authorised officer, and if any alien who has been prohibited as aforesaid lands in Lesotho, he shall be treated as if he had been refused leave to land in Lesotho.

13. Identification and examination of aliens entering and departing.

(1) Subject to the provisions of section three, every alien of or above the age of sixteen years who enters, lands in, departs from or embarks in Lesotho shall, if so required by an authorised officer, produce to that officer-

(a) A valid passport, and

(b) if he enters or lands, proof that he is permitted by or under this Act so to enter or land.

(2) An authorised officer may examine and interrogate any alien in, or seeking to enter, land in, depart from or embark in Lesotho for the purposes of determining whether leave so to enter, depart, land or embark should be granted to him, and for the purpose of exercising any powers and carrying out any duties under this Act, and an authorised officer may, if he considers it necessary, require such an alien entering or landing, to produce a medical certificate showing him to be free from any disease or affliction.

(3) It shall be the duty of every person to furnish to an authorised officer such information as that officer may require for the purpose of his functions under this section and subsection (1) of section twelve.

(4) Notwithstanding anything in section eleven of this Act, an alien may enter or land in Lesotho, without the previous grant of leave to enter or land, for the purpose of examination under this section in accordance with arrangements in that behalf approved by an authorised officer, and if he submits forthwith to that examination he shall be deemed for the purposes of this Act not to have entered or landed unless and until such leave is granted to him; and a person who enters or lands as aforesaid may be detained, pending and during the examination, under the authority of an authorised officer.

(5) For the purposes of exercising his powers and carrying out his duties under this Act an authorised officer may, without warrant, enter upon, search and detain any aircraft, train or vehicle in Lesotho.

14. Expulsion of aliens refused leave to enter or land.

If leave to enter or land in Lesotho is lawfully refused to an alien in pursuance of the provisions of section eleven, his presence in Lesotho shall, subject to the provisions of section thirty-eight and section thirty-nine, be unlawful for the purposes of Part IV, which relates to the expulsion of aliens.

15. Removals of aliens entering or landing unlawfully, etc.

(1) The provisions of section fourteen of this Act shall apply to an alien who -

(a) is found in Lesotho after entering or landing without leave in contravention of this Act;

(b) having landed in Lesotho from an aircraft, train or vehicle in which he was a member of the crew with leave to land granted to him subject to a condition under section eleven requiring him to leave Lesotho within a specified period in accordance with arrangements for his repatriation, fails to comply with that condition, or is reasonably suspected of intending so to fail;

as if he were an alien to whom leave to land had been refused.

16. Returns to be made by Commanders of Aircraft, etc.

(1) The Minister may by Order which shall be published in the Gazette, prescribe that, subject to the provisions of this section, the commander of an aircraft, or the guard or conductor of a train, or the person in charge of a vehicle arriving from a place outside Lesotho at a port of entry and departure in Lesotho shall, if so

required by an authorized officer –

(a) furnish to that authorized officer a list of the names and nationalities of all alien passengers arriving or intending to travel on board the aircraft, train or vehicle; and

(b) as soon as practicable after the arrival of the aircraft, train or vehicle at the port of entry, furnish to an authorized officer a list of the names and nationalities of all alien members of the crew arriving in the aircraft, train or vehicle.

(2) An alien passenger in an aircraft, train or vehicle shall furnish to the commander of the aircraft, guard or conductor of the train or person in charge of the vehicle any information required by him for the purpose of furnishing a return under this section.

17. Other duties of commanders of aircraft, etc.

(1) The commander of an aircraft, the guard or conductor of a train or the person in charge of a vehicle arriving from a place outside Lesotho at a port of entry in Lesotho shall take such steps as may be necessary for preventing any alien subject to examination under section thirteen of this Act from landing from that aircraft, train or vehicle until that alien has been examined under that section, or lands for examination in accordance with arrangements approved thereunder.

(2) The commander of an aircraft or the guard or conductor of a train or the person in charge of a vehicle at a port of entry and departure in Lesotho shall, if so required by an authorized officer, take such steps as may be necessary for preventing –

(a) an alien arriving in the aircraft, train or vehicle to whom leave to land has been refused, from landing in Lesotho;

(b) an alien placed on board the aircraft or train or vehicle under the provisions of any law for the time being in force relating to the expulsion of persons from Lesotho from landing while the aircraft, train or vehicle remains at the port of

entry and departure.

(3) For the purpose of preventing an alien from landing as mentioned in this section, the commander of an aircraft, the guard or conductor of a train or the person in charge of a vehicle, may detain that alien in custody on board the aircraft, train or vehicle, and while so detained that alien shall be in lawful custody.

Part III - REGISTRATION

18. Register of aliens.

(1) There shall be provided and maintained under the control of the Minister a central register of aliens in which there shall be registered the particulars specified in the Second Schedule.

(2) For the purposes of this Act the Minister may by Notice which shall be published in the Gazette establish areas in which local registers of aliens shall be provided and maintained. Areas so established are referred to in this Act as registration areas.

(3) If a registration area is established, the registering officer for that area shall keep for that area a local register of aliens containing the particulars specified in the Second Schedule to this Act in addition to or instead of the central register prescribed in subsection (1), as may be provided in the Notice under the preceding subsection. The registering officer for such an area shall furnish to the Minister, at such times and in such form as may be required by the Minister, such information as may be so required as to particulars contained in that register.

(4) The registering officer in charge of the central register, or of a local register, as the case may be, shall endorse in the valid passport of the alien of whom particulars are entered in that register, the fact that such registration has taken place.

(5) Anything required or authorised by this Act to be done by or to a registering officer may be done by or to any other person who is authorised by that registering

officer in that behalf.

19. Duty of aliens to register on entry, etc.

(1) Subject to the provisions of section three and twenty every person who -

(a) being an alien within Lesotho on the date upon which this section comes into operation;

(b) being an alien of or over the age of sixteen years, enters Lesotho on any occasion;

(c) being an alien within Lesotho, attains the said age or, having previously been exempted from this Act (otherwise than by reason of his age), ceases to be so exempted; or

(D) being of or over the said age, becomes an alien while in Lesotho, shall forthwith comply with subsection (2) of this section.

(2) Every such alien as aforesaid shall attend at the office of the registering officer in charge of the central register of aliens, or at the office of the registering officer for the registration area in which he is living or staying, and furnish to that officer such information, documents or other particulars as are required for the purposes of the register kept by that officer and in particular shall either -

(a) produce to that officer a valid passport; or

(b) give to that officer a satisfactory explanation of the circumstances, which prevent him from producing such a valid passport.

(3) If the registering officer is uncertain what nationality (if any) is to be ascribed to an alien by whom particulars are furnished under this section, he may describe the alien in the register as being of uncertain nationality or of such nationality as

appears to the officer to be the probable nationality of the alien.

20. Exemption from and postponement of registration in certain cases.

(1) An alien shall not be required to attend and furnish particulars under subsection (2) of section nineteen by reason of his entering Lesotho on any occasion -

(a) if he was living in Lesotho immediately before his entry, and has previously furnished particulars under that section;

(b) if, being a member of the crew of an aircraft or train, he enters Lesotho and leaves again with the same aircraft or train on its next return journey.

(2) Without prejudice to subsection (1) of this section, an alien shall not be required to attend and furnish particulars under subsection (2) of section nineteen by reason of his entering Lesotho on any occasion until the expiration of seventy-two hours after his entry, unless he is required by conditions imposed under section eleven to comply with the said subsection (2) forthwith.

21. Duty to notify changes of dwelling, address, etc.

(1) Every alien who has, or should have, furnished particulars under section nineteen and who for the time being has a dwelling or lodging in Lesotho, on affecting a change of dwelling or lodging within Lesotho, report his arrival at his new dwelling or lodging to the registering officer in charge of the central register of aliens, or the registering officer for the registration area, if any, in which that new dwelling or lodging is situated, within seventy-two hours after his arrival.

(2) Where any such alien as aforesaid, without effecting any change of dwelling or lodging within Lesotho, is absent from his dwelling or lodging therein for a continuous period exceeding one month, he shall -

(a) If he is within Lesotho at the expiration of one month from the time when he left his dwelling or lodging, forthwith give notice in writing to the registering

officer in charge of the central register of aliens, or the registering officer for the registration area, if any, in which his said dwelling or lodging is situated, specifying his address for the time being;

(b) From time to time give the like notice of any address within Lesotho, which he may subsequently have during his absence; and

(c) On returning to his said dwelling or lodging (whether he has left Lesotho during his absence or not), give the like notice of his return.

(3) Subject to subsection (4) of this section, every alien who has, or should have, furnished particulars under the said section nineteen and who has for the time being no dwelling or lodging in Lesotho shall, if registration areas have been established, and -

(a) If he goes from one registration area to another and remains in the latter area for more than seventy-two hours, report forthwith to the registering officer of that area;

(b) if he moves from one address to another within the same registration area, give notice of his new address within seventy-two hours after his arrival to the registering officer of that area.

22. Supplementary provisions as to registration.

(1) Every alien who has, or should have, furnished particulars under section nineteen shall -

(a) within seventy-two hours after the occurrence of any event affecting the accuracy of any particulars entered in a register, give notice thereof to the registering officer in charge of the central register of aliens, or the registering officer for the registration area in which he is registered at the time; and

(b) if so required by a registering officer, supply to that officer any information

(including, where so required, a recent photograph of himself) which may be necessary for maintaining the accuracy of a register of aliens.

(2) On the making of any alteration or addition in a register in respect of an alien, the alien shall, if so required by the registering officer, produce his valid passport in order that any necessary alteration or addition may be made therein.

(3) An alien required under section nineteen or under this section to furnish a photograph of himself for the purpose of paragraph 14 of the Second Schedule to this Act shall furnish two copies of the same photograph, and if he fails to furnish such a photograph in accordance with this subsection, the registering officer may cause him to be photographed for the purpose.

23. Production of passports, permits, etc.

(1) Every alien shall, on demand made at any time by an authorised officer, produce to the authorised officer a valid passport and his indefinite permit or temporary permit where required, or give to the officer or trooper a satisfactory reason for not producing such a passport, indefinite permit or temporary permit as aforesaid.

(2) If an alien fails on any occasion to comply with subsection (1) of this section, he may (without prejudice to the taking of any proceedings against him in respect of the failure) be detained pending inquiries as to his identity, nationality, and right to be in Lesotho. While so detained, that alien shall be in lawful custody.

24. Registers of lodgers

(1) The keeper of any premises to which this section applies shall keep a register relating to all persons (irrespective of their nationality) of or over the age of sixteen years staying at the premises; and shall require all such persons to comply with their obligations under the following provisions of this section.

(2) Every person of or over the age of sixteen years who stays at any premises to which this section applies shall on arriving at the premises, enter in the register

kept under this section, or secure that there is entered into that register, the particulars specified in the Third Schedule to this Act.

(3) Every register kept under this section in respect of any premises shall be preserved by the keeper of the premises until the expiration of twelve months from the date when the last entry in the register was made, and any such register shall at all times be open to inspection by an authorized officer.

(4) This section applies to any premises, whether furnished or unfurnished, where lodging or sleeping accommodation is provided for reward:

Provided that the Minister may direct that this section shall not apply to any specified premises appearing to him to be occupied for the purposes of a university, school, hospital, club or other institution or association.

(5) In this section “keeper”, in relation to any premises includes any person who for reward receives any other person to stay at the premises, whether on his own behalf or as manager or otherwise on behalf of any other person; and “stay” means lodge or sleep for one night or more, in accommodation provided for reward.

(6) A person who fails or refuses to comply with any provision of this section or of the Third Schedule, shall be guilty of an offence and liable on conviction to the penalty prescribed in section thirty-three.

Part IV - EXPULSION OF ALIENS

25. Power to expel aliens.

(1) Subject to the provisions of section thirty-eight and thirty-nine, the Minister may make an order that an alien whose presence within Lesotho is unlawful shall be expelled from and remain out of Lesotho either indefinitely or for a period to be specified in the order.

(2) An order made under this section shall be carried into effect in such manner as the Minister may direct.

(3)An alien against whom an order is made under this section may, if the Minister so directs, be kept in prison or in police custody while awaiting expulsion and while being conveyed to the place of departure, and while he is so kept he shall be in lawful custody.

(4)Subject to the provisions of sections thirty-eight and thirty-nine, an order made and a direction given by the Minister under this section may at any time be varied or revoked by the Minister.

(5)The captain of an aircraft, the guard of a train, or the person in charge of a vehicle, due to call at any port or place outside Lesotho shall, if so required within Lesotho by an authorised officer, receive an alien against whom an order has been made under this section or under section twenty-eight on board that aircraft, train or vehicle and afford him, on due payment, a passage to or towards his final destination and proper accommodation and maintenance during the passage.

(6)A person who fails or refuses to comply with the provisions of subsection (5) shall be guilty of an offence and liable on conviction to the penalties prescribed in section thirty-three .

(7)An order made before the commencement of this Act under a law for the time being in force, whether or not since repealed, and directing that an alien be expelled, removed or deported from Lesotho and remain out of Lesotho indefinitely or for a specified period, shall, subject to the provisions of sections thirty-eight and thirty-nine be carried into effect and enforced under this Act according to the tenor thereof as if it were an order made under this section and shall, for the purposes of this Act, be deemed to be such an order, and an alien who in contravention of the terms of an order made or deemed to be made under this section enters or is found within Lesotho having previously left or been expelled, removed or deported from Lesotho in virtue or pursuance of such an order may, subject to the provisions of sections thirty-eight and thirty-nine, again be expelled from Lesotho without further order and the provisions of this section shall apply in any such case as if an order had been made against that alien under subsection (1) directing that he be so expelled, but without prejudice to any penalty to which that alien may be liable under this Act or any other law for the time being in force.

(8) If an alien is brought before a court and the court is informed that an application to the Minister for an order under this section in respect of that alien has been, is being, or is about to be made, the court may direct that that alien be detained in police or prison custody for any period not exceeding fourteen days pending a decision whether or not an order under this section shall be made against him, and while he is so detained he shall be in lawful custody.

26. Place of removal.

An alien who is expelled from Lesotho under section twenty-five shall be removed to the place whence he came or, with the approval of the Minister, to a place in the country to which he belongs or to any place to which he consents to be removed if the Government of that last-mentioned place consents to receive him. For the purpose of this section the onus of proving that an alien belongs to a particular country shall lie on that alien..

27. Offence to return.

An alien who having been directed by an order made or deemed to be made under section twenty-five to remain out of Lesotho returns to Lesotho in contravention of that order shall be guilty of an offence and liable on conviction to the penalty prescribed in section thirty-three.

28. Power to arrest and detain aliens expelled from other countries.

(1) Subject to the provisions of sections thirty-eight and thirty-nine, if an alien has been ordered to be expelled, deported or removed from another country by the authorities of that country, and that alien then enters or is found in Lesotho, an authorised officer may arrest that alien without warrant and that alien may be detained in prison or police custody until such time as arrangements can be made for his journey out of Lesotho to a place in the country to which he belongs or to any place to which he consents to be removed if the Government of that last-mentioned place consents to receive him, or until such time as arrangements can be made under any law for the time being in force for his sojourn in Lesotho.

(2) An alien detained in pursuance of the provisions of this section shall be in lawful custody.

(3) The provisions of subsection (5) and subsection (6) of section twenty-five shall apply in respect of an alien detained under the provisions of this section.

Part V - OFFENCES AND PROCEEDINGS

29. Bribery

If any person –

(a) gives, proposes to give or promises to give, directly or indirectly, any reward to any authorized officer or to any person or official whose duty is to deal with applications for the issue of any document under this Act, in respect of the performance or non-performance by such authorized officer, person or official, of his duty or employment; or

(b) agrees with or proposes to any such authorized officer, person or official to do or permit anything in contravention or evasion of this Act; or

(c) being an authorized officer, or a person employed by the Government of Lesotho –

(i) demands or receives, except from or through the Government of Lesotho, any reward in respect of the performance or non-performance of his duty or employment; or

(ii) by any willful act, neglect or default does, or permits, or agrees to do or permit anything in contravention or evasion of this Act,

he shall be guilty of an offence, and liable on conviction to the penalty prescribed in section thirty-three.

30. Offences relating to false information, obstruction and forgery

If any person –

(a) makes or causes to be made to any officer or person lawfully acting in the execution of this Act any false return, false statement or false representation; or

(b) refuses to produce to any such officer or person any document, or to furnish him with any information, which the said officer may reasonably require for the purposes of this Act, or otherwise obstructs any officer or person in the exercise of his functions under this Act; or

(c) without lawful authority, alters any certificate or document issued or made under this Act, or uses for the purposes of this Act, or has in his possession for such use, any forged, altered or irregular certificate, passport, visa or other document,

he shall be guilty of an offence and liable on conviction to the penalty prescribed in section thirty-three.

31. Evidence and proof of instruments

(1) Every document purporting to be an order, direction, notice, authority or other instrument made or issued by the Minister in pursuance of any provision contained in, or having effect under, this Act, and to be signed by him or on his behalf shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by him.

(2) Prima facie evidence of any such instrument as aforesaid may in any legal proceedings be given by the production of a document bearing a certificate purporting to be signed by or on behalf of the Minister and stating that the document is a true copy of the instrument.

(3) Where such an instrument as aforesaid applies to persons specified in a schedule thereto, prima facie evidence of the provisions of the instrument other than the schedule and of any entry contained in the schedule may in any legal proceedings be given by the production of a document purporting to be signed as aforesaid and stating that the document is a true copy of the said provisions and the relevant entry.

(4) A certificate or written statement under the hand of an authorized officer shall, in any proceedings under this Act or in any criminal proceedings in respect of a contravention of this Act, be prima facie evidence of the facts stated therein, and it shall not be necessary to tender oral evidence of such facts, unless the court before which the proceedings are held so directs; in which event a postponement shall be allowed to enable the officer whose oral evidence is required, to attend.

(5) Any order, warrant, permit, certificate, or other document which may be issued under this Act shall be good and effectual if signed by an authorized officer or any officer in the public service authorized by the Minister by notice in the Gazette so to do, and when so signed shall be accepted for all purposes as having been issued in accordance with the provisions of this Act.

32. Onus of proof.

The onus of proving or disproving any facts the proof or disproof of which is required to establish for any of the purposes of this Act that a person is not an alien, or that a person is entitled to the benefit of section thirty-eight and the Fourth Schedule, or that a person is entitled to the benefit of section thirty-nine, shall lie on that person.

33. Penalties.

(1) Any person guilty of an offence under subsection (3) of section seven, subsection (3) of section eleven, or subsection (6) of section twenty-four, shall be liable on conviction to a fine not exceeding twenty rands or, in default of payment, to imprisonment for a period not exceeding two months, and the court by which he is convicted may either in addition to or in lieu of any such punishment require him to enter into recognisances, with or without sureties, to comply with the provisions of this Act or such provisions thereof as the court may direct.

(2) Any person guilty of an offence under subsection (6) of section twenty-five, section twenty-seven, section twenty-nine, or section thirty, shall be liable on conviction to a fine not exceeding one thousand rands or, in default of payment to imprisonment for a period not exceeding five years, and the court by which he is convicted may either in addition to or in lieu of any such punishment require him to enter into recognisances, with or without sureties, to comply with the provisions of this Act or such provisions thereof as the court may direct.

(3) If any person fails to comply with an order of a court requiring him to enter into recognisances under subsection (1) or subsection (2) that court, or any other court having jurisdiction may commit him to prison until that recognizance, with sureties if so directed, is entered into:

Provided that imprisonment under this subsection shall not exceed one year.

(4) A court convicting a person of an offence under any provision of this Act may, in addition, recommend to the Minister that any right or privilege granted, or permit issued to that person under this Act be cancelled or withdrawn, as the case may be, and that that person be expelled from and remain out of Lesotho.

(5) For the purposes of the trial of a person for an offence against this Act the offence shall be deemed to have been committed either at the place at which it was actually committed or any place in which the offender may be.

(6) Any powers exercisable under this Act in the case of an alien may be exercised notwithstanding that proceedings for an offence against this Act may be or have been taken against that alien, and if that alien is in prison or other lawful custody in execution of the sentence or order of a court in respect of a criminal offence of which he has been accused or convicted, and an order is made for his expulsion under the provisions of Part IV, the Minister may, unless otherwise ordered by a court of competent jurisdiction, order that that alien be discharged from custody in respect of that criminal offence in order that he may be expelled from Lesotho.

Part VI - SUPPLEMENTARY

34. Arrest and detention.

(1) A person who has committed or is reasonably suspected of having committed an offence against this Act (not being an offence under section twenty-four or an offence under subsection (3) or (4) of section thirty in respect of any register or statement required to be kept or furnished under the said section twenty-four) and any person who may be detained in pursuance of any provision of this Act, may be arrested without warrant by an authorised officer.

(2) A person detained in pursuance of any provision of this Act (otherwise than on board an aircraft, train or vehicle) may be detained at any place used by an authorised officer for the purpose of his duties at a port of entry and departure or any place specially provided for the purpose of detention at a port of entry and departure or any police station or prison or such other place as may be prescribed by order of the Minister; and every person detained in pursuance of any such provision shall, while so detained, be in lawful custody.

(3) Where an alien is in custody, having been arrested or detained under this Act, an authorised officer, prison officer, or any other person authorised by the Minister to act under this subsection may take all such steps as may be reasonably necessary for photographing, measuring or otherwise identifying the alien.

(4) An alien who is detained under this Act or in pursuance of a sentence or order of court, may be taken in the custody of an authorised officer or prisons officer to and from any place where his attendance is required for the purpose of identifying him, ascertaining his nationality or of making arrangements for his admission to another country.

35. Revocation of orders, etc.

Any power conferred by this Act to make appointments or orders or to give directions shall include power to revoke, suspend, re-instate or vary such appointments, orders or directions.

36. Power to make regulations

(1) The Minister may make regulations, not inconsistent with the provisions of this Act, generally for carrying into effect the principles, purposes and provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, prescribe –

(a) anything which under this act is to be prescribed by regulation;

(b) fees for this issue of any document which may be issued under this Act or any regulation made under this section, and the amount and the nature of the security to be found for the due carrying out of any condition of an indefinite permit or a temporary permit, but so that no such fee or security shall be greater than is reasonably required to cover the cost of issuing that document, or greater than is reasonably required to ensure that that condition is carried out;

(c) the form of application for permits, certificates or other documents to be issued or used for the purpose of this Act and the particulars to be inserted in any such application, permit, certificate or document;

(d) prescribing the form of warrants, permits, certificates and other necessary document.

(2) There may be attached to the breach of any regulation made under this section penalties not exceeding those prescribed in subsection (2) of section thirty-three, if that breach is constituted an offence by those regulations.

(3) The Minister may by Notice which shall be published in the Gazette amend or replace the Second Schedule and the Third Schedule. References to the Second and Third Schedules shall be construed as references to those Schedules as so amended or replaced.

37. Transitional provisions.

(1) Any permit or certificate in force at the date of commencement of this section, which was issued under section four, section five or section seven of the Aliens

Proclamation, or under section seven, section eight or section ten respectively of the Entry and Residence Proclamation, shall from the said date have like effect as a permit, temporary permit or exemption issued under section six, section seven or section nine respectively of this Act, shall be subject to the same conditions respectively as an indefinite permit, a temporary permit or an exemption under section nine, and shall be subject to all the provisions of this Act relating respectively to an indefinite permit, temporary permit or such an exemption.

(2) Every exemption and every temporary permit in force immediately before the date of commencement of this section, which was granted or issued under section thirty-two of the Entry and Residence Proclamation to a person who is an alien under this Act, shall cease to have effect on the date of commencement of this section, and thereafter shall have no effect, but so that if the provisions of sections thirty-eight and thirty-nine of this Act apply to that alien, the provisions of this section shall not affect the operation of those sections in relation to that alien. Notwithstanding that this section may not have come into operation, that alien may apply to the Minister for sojourn under any provision of this Act, and the Minister may receive and consider that application. Upon the coming into operation of the material provision of this Act, the Minister may, in accordance with that provision and all other relevant provisions of this Act, exercise, or decline to exercise the powers and duties conferred on him or on an officer by any such provision *mutatis mutandis* as if that alien were outside Lesotho, or were inside Lesotho in circumstances in which his presence was authorized by section thirty-eight.

(3) Subject to the provisions of the next succeeding subsection, there shall be carried out to completion under the provisions of this Act, all matters that, immediately prior to the commencement of the material provision of this Act, were pending under the Entry and Residence Proclamation and that would, if done after the commencement of that provision, be subject to the provisions of this Act.

(4) If any appeal is pending under the provisions of section sixteen of the Entry and Residence Proclamation and it has not been abandoned or has not lapsed for want of prosecution, that appeal shall be dealt with under the provisions of section sixteen of the Entry and Residence Proclamation, and references in that section of an appeal board, to the membership and members of that board, and to any Permanent Secretary, shall be construed as if they were references to the Minister. Nothing in this section shall be taken as applying the provisions of sections seventeen, eighteen and nineteen of the Entry and Residence Proclamation to such appeal, which shall be subject to the provisions of section forty of this Act.

(5) Notwithstanding anything contained in subsection (1) of section five, no alien to whom the provisions of this subsection apply shall be expelled from Lesotho under the provisions of Part IV unless that alien consents to his expulsion or unless the continued presence of that alien in Lesotho is contrary to a principle set out in the First Schedule. The provisions of this subsection apply to -

(a) an alien who lawfully entered Lesotho before the 25th day of April 1958, and is lawfully resident permanently in Lesotho on the date of commencement of this section, while that residence lawfully continues, and the wife and children of that alien; and

(b) an alien who lawfully entered Lesotho on or after the 25th day of April 1958, and is lawfully resident permanently in Lesotho on the date of commencement of this section, while that residence lawfully continues, and the wife and children of that alien.

If any question arises -

(a) whether the provisions of this subsection apply to an alien; and

(b) whether the continued presence of that alien in Lesotho is not contrary to any of the principles set out in the First Schedule,

the High Court may on the application of that alien declare that the provisions of this subsection apply to him, and that the continued presence of that alien in Lesotho is not contrary to the principles set out in the First Schedule, or may decline to make any such declaration.

(6) In this Act a reference to an alien shall, up to the expiry of the 3rd day of October 1966 be construed as if it were a reference to a person who does not belong to Basutoland and the definition of "alien" in subsection (1) of section two shall come into operation from the 4th day of October 1966 and shall have no effect before then.

(7) For the purposes of the preceding subsection, a person shall be deemed to belong to Basutoland if, and shall not be so deemed unless, that person is -

(a) an African born in Basutoland; or

(b) an African whose father was born in Basutoland and who, when he first entered Basutoland, had not attained the age of sixteen years (or who, when he first seeks to enter Basutoland in reliance to section four of the Constitution of Basutoland set out in Schedule I to the Basutoland Order 1965, has not attained that age); or

(c) a woman who is married to, or has been married to, a person specified in paragraph (a) or paragraph (b) of this subsection.

(8) In this Act a reference to Lesotho shall, up to the expiry of the 3rd day of October 1966 be construed as a reference to Basutoland.

(9) In this Act a reference to the Minister shall, up to the expiry of the 3rd day of October, 1966, be construed as if it included a reference to the British Government Representative, to the extent that matters relevant to this Act relate to, and are subject to, the powers and responsibilities of the British Government Representative under the Constitution and under any assignment and conditions that may be in force under section 69(2) of the Constitution.

(10) The provisions of this section shall apply in relation to the Entry and Residence Proclamation to the extent provided in this section, notwithstanding the repeal of that Proclamation by section forty-two.

38. Saving as to refugees.

(1) If any international treaty or convention relating to refugees is or has been acceded to by or has been acceded to by or on behalf of the Government of Lesotho, an alien is a refugee within the meaning of such a treaty or convention shall not be refused entry into or sojourn in Lesotho, and shall not be expelled

from Lesotho in pursuance of the provisions of this Act except with his consent or except to the extent that is permitted by that treaty or convention, subject to any reservation that may be in force at the material time.

(2) If any questions arises -

(a) whether an alien is a refugee;

(b) whether any provision of an international treaty or convention relating to refugees, applies to that alien; and

(c) whether the expulsion of that alien from Lesotho is permitted by that treaty or convention, the High Court may on the application of that alien declare that he is a refugee, that the provision of the international treaty or convention applies to him, and may declare that his expulsion from Lesotho is, or is not, permitted by that treaty or convention, or may decline to make any such declaration.

(3) The provisions of this subsection and the Fourth Schedule shall apply to an alien who claims to be a refugee and who by reason of that claim applies for special privileges of sojourn in Lesotho without authority or permission under the other provisions of this Act for his entry or sojourn. For so long as a provisional authority or Proclamation is in force under the Fourth Schedule, the alien to whom it refers may subject to the conditions thereof, sojourn in Lesotho.

39. Saving as to citizens of reciprocating countries.

(1) If advised in accordance with the Constitution, is satisfied that legal provision exists in a country whereby citizens of Lesotho are accorded exemption or special benefits under the laws of that country relating to aliens, he may, if so advised in accordance with the Constitution, by Proclamation provide for corresponding exemption or special benefits to be accorded to citizens of that country under this Act.

(2) Every such Proclamation may be revoked by [the Minister] and notice shall be published in the Gazette of the making and revocation of every such Proclamation.

(3) For so long as a Proclamation is in force under this section, this Act shall be construed in relation to the citizens of the country to which that Proclamation refers, and such modifications, adaptations, qualifications and exceptions as may be specified in the Proclamation or as may be necessary to bring this Act into conformity with that Proclamation.

(4) A Proclamation under subsection (1) may provide that, except where a court has in pursuance of the provisions of any law made a recommendation for his expulsion, no alien who is a citizen of a country to which that Proclamation refers shall be expelled from Lesotho in pursuance of an order made under the provisions of the Act unless he consents to his expulsion or unless a subordinate court presided over by a Resident Magistrate has in accordance with Rules of Court (which the Chief Justice is hereby empowered to make) made a report on the case and [the Minister] is satisfied, having regard to the findings of fact and any conclusions of law as stated in the report, that the order may properly be confirmed.

(5) If any question arises -

(a) whether an alien is a citizen of a country to which a Proclamation under subsection (1) refers; and

(b) whether any modification, adaptation, qualification or exception which has been made otherwise than in that Proclamation is necessary in order to bring this Act into conformity with that Proclamation,

the subordinate court mentioned in the preceding subsection may, on the application of alien, in its report make findings of fact and conclusions of law concerning those questions.

(6) The provisions of subsections (4) and (5) shall apply from the 4th day of October 1966 to a person who has status of a Commonwealth citizen by virtue of a provision of the Constitution, notwithstanding that no date may have been fixed under section one for the commencement of this subsection. A reference in subsections (4) and (5) to a citizen of a country to which a Proclamation made

under subsection (1) refers, shall be construed as a reference to a person who has the status of a Commonwealth citizen for so long as the provisions of this subsection apply to that person and to the extent that those provisions apply to him. The provisions of this subsection shall cease to have effect in relation to a person to the extent that a Proclamation made under subsection (1) is inconsistent with those provisions.

7. For the purpose of subsection (6) the following shall have the status of a commonwealth citizen:

(a) every citizen of Lesotho and every person who under any enactment for the time being in force in the United Kingdom and colonies, Canada, Australia, New Zealand, India, Pakistan, Ceylon, Ghana, Malaysia, Nigeria, Cyprus, Sierra Leone, Tanzania, Jamaica, Trinidad and Tobago, Uganda, Kenya, Malawi, Malta, Zambia, the Gambia, Guyana, Botswana, Singapore, Barbados, Mauritius and Swaziland is a citizen of such country; and

(b) every persons who is the British subject without citizenship under the British Nationality Act, 1948 or continues to be a British subject under section 2 of that Act or is British subject by virtue of section 1 of the British Nationality Act 1965]

40. The exercise of discretion, and appeals.

(1) In the exercise of their powers and in the performance of their duties under this Act and the regulations, the Minister and every authorised officer and registering officer shall, in doing or omitting to do anything in the exercise of a discretion, restrict a fundamental human right or freedom only to the extent that is permitted by the Constitution, and then only by that means which is least restrictive of that fundamental human right or freedom.

(2) In hearing and determining an application or question in pursuance of any provision of the Constitution that relates to the enforcement of the provisions of the Constitution that protect fundamental human rights and freedoms, the High Court may in the same proceedings of its own motion or at the instance of a party to those proceedings, determine any question whether the provisions of subsection (1) have been contravened in relation to the person to whom those proceedings refer, and may make such orders, issue such process and give such directions as it may consider appropriate for the purpose of securing the proper application of the provisions of the preceding subsection in relation to that person.

(3) There shall be no appeal against anything done or omitted to be done by the Minister or by an authorised officer or a registering officer in the exercise of his

powers and in the performance of his duties under this Act or the regulations, but nothing in this subsection shall be taken to prevent any person from applying to the High Court for redress in pursuance to any provision of the Constitution that relates to the enforcement of the provisions of the Constitution that protect fundamental human rights and freedoms, and nothing in this subsection shall be taken to prevent the High Court from hearing or determining any such application or any question referred to it under that provision of the Constitution or arising under the preceding subsection.

(4) Unless otherwise ordered by the High Court on the application of the Minister or of an authorised officer or a registration officer who is a party of the proceedings, nothing done or omitted to be done by the Minister or an authorised officer or a registering officer in the exercise of his powers or in the performance of his duties under this Act or the regulations, shall be put into effect in relation to a person if an application has been made to the High Court by or on behalf of that person for redress in respect of the thing so done or omitted to be done, in pursuance of any provision of the Constitution that relates to the enforcement of the provisions of the Constitution that protect fundamental human rights and freedoms, unless and until that application has been refused by the High Court or otherwise has lapsed or been withdrawn or abandoned.

41. Indemnity

Nothing done or omitted to be done by any person shall, if the act or omission was done or omitted bona fide while acting in the execution of his duty under this Act subject him personally to any liability, action, claim or demand: but so that nothing contained in this section shall affect the provisions of the Constitution relating to the protection of fundamental human rights and freedoms.

42. Repeals of proclamation 13 of 1958.

Subject to the provisions of section thirty-seven, the Entry and Residence Proclamation is hereby repealed.

FIRST SCHEDULE - PRINCIPLES GOVERNING THE ENTRY AND SOJOURN OF ALIENS

Subject to the provisions of sections three, paragraph (c) of subsection (2) of section five, section nine, section thirty-seven, section thirty-eight, section thirty-nine and section forty, an alien shall not be permitted or allowed under any provision of this Act to enter, land in, or sojourn in Lesotho, unless -

(1) he is and will be engaged in the work of a missionary or teacher, or in trade, commerce, industry, or in professional or in other work of a kind approved by the Minister, and that he will sojourn in accordance with the law for the time being in force relating to land, only on land set aside as or in connection with a mission or teaching, trading, commerce, industry, or professional or other work approved as aforesaid;

(2) he will be able to subsist without becoming a public charge by reason of infirmity of mind or body or because he is not in possession, for his own use, of sufficient means to support himself and such of his dependants as he proposes to bring or have with him;

(3) his actions will benefit, and will not adversely affect -

(i) the social and economic conditions of Lesotho;

(ii) the social and economic interests of the residents in the area where the alien is to sojourn;

(iii) the general interest of the existing population and of Lesotho as a whole; and

(iv) the interests of defence, public safety, public order, public health, public morality or fundamental human rights and freedoms;

(4) he has not been convicted in any country of any of the following offences or any offence corresponding thereto according to the law of that country (or has been so convicted and has received a free pardon therefore):-

(i) murder and culpable homicide;

(ii) rape, incest, sodomy and bestiality;

(iii) arson, theft, receiving stolen goods knowing the same to have been stolen, fraud, forgery or uttering forged documents knowing the same to have been forged, counterfeiting coin or uttering coin knowing the same to be counterfeit, housebreaking with intent to commit an offence, robbery, threats by letter or otherwise with intent to extort, and contravening any law relating to insolvency;

(iv) contravening the laws relating to the selling, bartering, giving or otherwise supplying firearms, ammunition or explosives;

(v) dealing in or being in possession of unwrought precious metals or precious stones;

(vi) contravening the provisions of any law relating to habit-forming duty;

(vii) any attempt to commit any of the aforesaid offences;

(5) he has not been convicted of any offence under this Act or the regulations, and has not failed or refused to do or omit to do anything which by or under any provision of this Act or the regulations, he is obliged or lawfully required to do or omit to do;

(6) he produces on demand to the Minister or an authorised officer or a registering officer, proof to the satisfaction of the Minister or that officer that he has an unrestricted right of re-entry into, or transit through, the country from which he has come to Lesotho;

(7) he has not been deprived according to law in Lesotho or any other country (otherwise than at his own request) of the right to practise a trade, profession or occupation, or has been so deprived and has thereafter according to law re-acquired the right to practise the trade, profession or occupation in the country in which he was deprived of that right: Provided that such deprivation in another

country shall be for a reason that would, in Lesotho, be admissible as a cause for that deprivation if it were sought in Lesotho.

Notwithstanding anything contained in this Schedule, the Minister may in his discretion exempt any person from the provisions of paragraphs 4, 5, 6 and 7 of this Schedule upon such conditions as are necessary in the interests of the matters specified in paragraphs 1, 2 and 3 of this Schedule and in the interests of the proper and effective administration and enforcement of the provisions of this Act and the regulations.

SECOND SCHEDULE – PARTICULARS OF ALIENS TO BE ENTERED IN REGISTER: Section 18 (1) and (3)

1. Name in full.....
2. Sex.....
3. (a) Date of Birth.....
(b) Country of Birth.....
4. (a) Present Nationality.....
(b) How and when acquired.....
(c) Previous nationality, if any.....
5. Particulars of passport or other documents establishing identity and nationality.....
6. Business, professional or occupation
7. Address in Lesotho.....
8. Last residence outside Lesotho.....
9.
 - a) Date of arrival in Lesotho
 - b) Place of arrival in Lesotho
 - c) Mode of arrival in Lesotho
10. Arrival Conditions, if any.....
11. (a) If employed in Lesotho-
 - I. Name of employer
 - II. address at which employed
(b) If engaged in business or profession in Lesotho but self-employed-
 - I. name under which business or profession is carried on.....
 - II. address at which business or profession is carried on.....
12. Particulars of any service (including past service) under the government of any country served.....
 - a) name of the country served.....
 - b) nature of service
 - c) duration of

- service.....
- d) rank of appointment held.....
- 13. Signature (or fingerprints if unable to write in the characters of the Sesotho or English language).....
- 14 Photograph if not in the position of an indefinite permit or temporary licence.

THIRD SCHEDULE – PARTICULARS TO BE ENTERED IN REGISTER OF LODGERS

(The register may be arranged in any form which does not affect the substance of this Schedule, and may include other matters relating to the contractual relationship of the keeper of the premises to the lodger.

- Surnam.....
- First Names.....
- Date of Arrival.....
- Arrived here from (give last address in full).....
- Date of Departure.....
- Destination (give destination address in full).....
- Signature of person to whom the above particulars relate

FOURTH SCHEDULE - PROVISIONS RELATING TO REFUGEES

1. Application, and Grant of special sojourn.

An alien who claims to be a refugee and who is not in possession of an indefinite permit or temporary permit previously obtained and in force at the material time, shall immediately upon arrival in Lesotho, or immediately upon expiry of lawful authority for his presence in Lesotho, as the case may be, report to an authorised officer and apply in the prescribed form for condonation of any contravention of this Act arising out of his entry into and presence in Lesotho, and for a grant to him of special privileges of sojourn in Lesotho. The authorised officer shall forward the application to the Minister and subject to, and pending any order made under the provisions of paragraph 2 or paragraph 5, the authorised officer shall issue to that person provisional authority in the prescribed form for a sojourn not exceeding one month, subject to the same conditions as apply to a grant made in pursuance to the provisions of paragraph 2, and to the further investigation of his claim as may be required by the Minister:

Provided that an authorized officer may extend the period of sojourn under provisional authority from time to time until an order is made or declined under paragraph 2 or revoked under paragraph 5.

2. Power to condone contravention and grant special privilege of sojourn in Lesotho.

[If he is satisfied that an alien claiming to be a refugee, is a refugee, and that he ought to be allowed to sojourn in Lesotho, the minister, acting after consultation with the Attorney-General, may direct that any contravention of this Act or the regulations arising out of his entry into the presence in Lesotho shall be condoned and may grant him permission to sojourn in Lesotho for such length of time and subject to such conditions as the minister may think fit]

3. Grant and conditions of sojourn.

When [a direction] has been made under the provisions of the preceding paragraph in respect of an alien, his sojourn in Lesotho shall be in accordance with the terms of that [direction and shall, subject to the provisions of section forty, be subject to such conditions as the Minister may prescribe, either generally by regulation under section thirty-six in relation to all alien refugees or specified kinds of refugees, or particularly in relation to an alien refugee by notice in writing served on him personally, in the public interest and in the interests of the proper and effective administration of this Act and the regulations.

4. Application of other laws.

The Minister may by Order, which shall be published in the Gazette, declare that a law or any part of a law for the time being in force or which may come in force relating to aliens and to their extradition or expulsion shall not apply or shall apply with specified modification to an alien in respect of whom a Proclamation has been made under paragraph 2, and thereupon and for so long as that declaration remains in force, those laws and parts of laws shall not apply, or shall apply as so modified, as if their provisions had been amended in relation to that alien.

5. Withdrawal of grant and declaration and revocation of Proclamation.

Subject to the provisions of section thirty-eight, [the minister] may revoke a [declaration] made under paragraph 3, and the Minister may revoke a declaration made under paragraph 4 or a provisional authority under paragraph 1 without assigning any reason, and the grant of special privileges of sojourn shall cease in relation to the alien named in a Proclamation or provisional authority revoked under this paragraph and that alien shall be liable to expulsion under the provisions of this Act.