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14 May 2026

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THE PRESIDENCY

No. 7481 14 May 2026

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

Act No.11 of 2025: The Immigration Amendment Act, 2025

BUMENGAMELI

No. 7481 14 May 2026

Kwatiswa kutsi Mengameli uvumile loMtsetfo lolandzelako, loshicilelwe lapha kute kutfolakale lwati jikelele:—

UMtsetfo 11 ka-2025: Umtsetfo wekuchitjyelwa kweMtsetfo wekungena kulelive, 2025

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GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President)
(Assented to 11 May 2026)

ACT

To amend the Immigration Act, 2002, so as to revise provisions relating to arrest and detention of illegal foreigners for purposes of deportation and to align these provisions with constitutional principles; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 34 of Act 13 of 2002, as amended by section 35 of Act 19 of 2004 and section 47 of Act 19 of 2004

1. Section 34 of the Immigration Act, 2002 (Act No. 13 of 2002), (hereinafter referred to as the “principal Act”), is hereby amended— 5

- (a) by the deletion in subsection (1) of paragraphs (b) and (d);
- (b) by the substitution in subsection (1) for paragraph (c) of the following paragraph:

“(c) shall be informed upon arrest and detention or immediately thereafter of the— 10

(i) rights set out in **[the preceding two paragraphs]** paragraph (a) and subsection (1A)(g);

(ii) reason for the detention;

(iii) right to choose, and to consult with, a legal practitioner; and 15

(iv) right to have a legal practitioner assigned to him or her by the State and at State expense, if substantial injustice would otherwise result,

[when possible, practicable and available] in a language that he or she understands, when possible, practicable and available; and”; and 20

(c) by the insertion after subsection (1) of the following subsection:

“(1A) An immigration officer may arrest and detain an illegal foreigner for purposes of deportation, provided that—

(a)(i) the foreigner has been interviewed as contemplated in section 41(1); and 25

(ii) the immigration officer has considered whether the interests of justice, after taking into account the relevant factors that must be prescribed by the Minister, permit the release of such foreigner subject to reasonable conditions, and must, if he or she

2EMANOTSI LACHASISAKO LAJWAYELEKILE:

- [] Emagama labhalwe ngalokugcamile lasetibayeni letitikwele akhombisa lokweciwe kumitsetfo lekhona lemisiwe.
- _____ Emagama ladvwetjelwe ngemugca locondzile akhombisa lokufakiwe kumitsetfo lemisiwe.

(English text signed by the President)
(Assented to 11 May 2026)

UMTSETFO

Kuchitjiyelwa kweMtsetfo Wekungena Kulelive, 2002, kute kubuyeketwe tiphakamiso letiphatselene nekuboshwa kanye nekugcinwa kwebachamuki ngalokungekho emtsetfweni ngetinjongo tekubacosha kanye nekuhlenganisa letiphakamiso nemigomo yemtsetfosisekelo; kanye nekuniketela ngetindzaba letiphatselene naloku.

UMISWA yiPhalamende yaseRiphabhulikhi yaseNingizimu Afrika ngalendlela lelandzelako:—

Kuchitjiyelwa kwesigaba 34 seMtsetfo 13 wanga-2002, njengobe uchitjiyelwe ngesigaba 35 seMtsetfo 19 wanga-2004 kanye nesigaba 47 seMtsetfo 19 wanga-2004

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1. Sigaba 34 seMtsetfo Wekungena Kulelive, wanga-2002 (uMtsetfo No. 13 wanga-2002), (lobitwa ngekutsi “uMtsetfo Lomkhulu”), siyachitjiyelwa—

(a) ngekususa sigatjana (1) sendzima (b) na (d);

(b) ngekususa sigatjana (1) sendzima (c) salenzima lelandzelako:

“(c) utawatiswa ngesikhatsi aboshwa futsi avalelwa nobe masinyane ngemuva kwaloko—

(i) emalungelo lamiswe ku- **[tinzima letimbili letendlulile]** indzima (a) nesigatjana (1A)(g);

(ii) sizatfu sekuboshwa;

(iii) lilungelo lekukhetsa nekutsintsana nemmeli; futsi

(iv) nelilungelo lekuba nemmeli loniketwe yena ngumbuso ngetindleko tembuso, uma ngabe loko kungaholela ekutsini kwentiwe lokungekho emtsetfweni lokukhulu,

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[lapho kukhonakala khona, futsi kutfolakala khona] ngelulwimi uyavisisa, **lapho kukhonakala khona, kusebenta kahle futsi kutfolakale; futsi**;

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(c) ngekufaka ngemuva kwesigatjana (1) kwalesigajane lesilandzelako:

“(1A) Sisebenti setindzaba tekungena eveni singabopha sivalele wangaphandle ngalokungekho emtsetfweni kwentela kubuyisela emuva, uma ngabe—

(a)(i) Umuntfu longumchamuki sewuhlolwe ngekulandzela sigaba 41(1); futsi

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(ii) sikhulu lesibukene netindzaba tekungena eveni, ngemuva kwekubuketa tintfo letifanele letitawuncunywa yiNdvuna, sicabangele kutsi ngabe tinhloso tebulungiswa tivumela kukhululwa kwalomuntfu wangaphandle ngekulandzela imibandzela lefanelekile yini, futsi kumele, uma sifinyelela esiphetfweni sekutsi tinhloso tebulungiswa tivumela

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- so concludes that the interests of justice permit the release of such foreigner, impose reasonable conditions and record the release and reasons therefor on a prescribed form;
- (b) a foreigner so detained must be brought before a court in person, within 48 hours from the time of his or her arrest or not later than the first court day after the expiry of the 48 hours, if the 48 hours expired outside ordinary court days; 5
- (c) the court before whom the detained foreigner is brought must consider whether the interests of justice permit the release of such person subject to reasonable conditions and must, if it so concludes, order the person to be released subject to reasonable conditions; 10
- (d) if the court concludes that the interests of justice do not permit the release of such person, the court may authorise the further detention of the foreigner concerned for a period not exceeding 30 calendar days; 15
- (e) if the court has ordered the further detention of such foreigner, he or she must be brought before the court prior to the expiry of the period of detention authorised by the court and the court must consider whether the interests of justice permit the release of such foreigner subject to reasonable conditions and must, if it so concludes, order the foreigner to be released subject to reasonable conditions as imposed by the court; 20
- (f) if the court considering further detention of such a foreigner concludes that the interests of justice do not permit the release of such foreigner, the court may authorise the further detention of the foreigner for an adequate period not exceeding a further 90 calendar days; and 25
- (g) a foreigner concerned brought before a court in terms of paragraph (b) or (e) must be given an opportunity to make oral or written representations to the court, and such representations must be considered together with the representations by the immigration officer.”. 30

Substitution of word in Act 13 of 2002

2. The principal Act is hereby amended by the substitution for the word “Court”, wherever it occurs, of the word “court”. 35

Short title and commencement

3. This Act is called the Immigration Amendment Act, 2025, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

- kukhululwa kwalomuntfu wangaphandle, sibeke imibandzela lefanelekile bese sibhala lokukhululwa kanye netizatfu takhona efomini lelibekiwe;”.
- (b) umuntfu wangaphandle lobanjiwe ngalendlela kumele aletfwe embikwenkantolo matfupha, kungakendluli ema-awa langu-48 ngemuva kwekuvalelwa kwakhe nobe kungakendluli lilanga lekucala lekutsetfwa kwelicala ngemuva kwekuphela kwalama-awa langu-48, uma ngabe lama-awa langu-48 aphela ngaphandle kwemalanga etemtsetfo latayelekile; 5
- (c) inkantolo leletfwa embikwalo lomchamuki lobanjiwe kumele inake kutsi ngabe tinjongo tebulungiswa tivumela kukhululwa kwalowo muntfu ngaphasi kwemibandzela lefanelekile futsi, uma ifike esiphethweni lesinjalo, kumele ikhiphe umyalelo wekukhululwa kwalowo muntfu ngaphasi kwemibandzela lefanelekile; 10
- (d) uma inkantolo ifinyelela esiphethweni sekutsi tinjongo tebulungiswa atikuvumeli kukhululwa kwalomuntfu, inkantolo inganiketa imvume yekugcina lomuntfu wangaphandle lobanjiwe sikhatsi lesingandluli emalanga langu-30 ekhalenda; 15
- (e) uma ngabe inkantolo ikhiphe sincumo sekuchubeka nekuboshwa kwalomuntfu wangaphandle, kumele aletfwe embikwenkantolo ngembi kwekuphela kwesikhatsi sekuboshwa lesivunyelwe yinkantolo futsi inkantolo kumele ibuke kutsi ngabe tinhloso tebulungiswa tivumela kukhululwa kwalomuntfu wangaphandle ngaphasi kwemibandzela lefanelekile yini futsi kumele, uma ifike esiphethweni lesinjalo, ikhiphe sincumo sekutsi lomuntfu wangaphandle akhululwe ngaphasi kwemibandzela lefanele njengobe imiswe yinkantolo; 20
- (f) uma ngabe inkantolo lecabangela kuchubeka nekuvalelwa kwalomuntfu wangaphandle ifike esiphethweni sekutsi tinjongo tebulungiswa atikuvumeli kukhululwa kwalomuntfu wangaphandle, inkantolo ingavumela kuchubeka nekuvalelwa kwalomuntfu wangaphandle sikhatsi lesenele lesingandluli emalanga langu-90 ekhalenda; futsi 25
- (g) umchamuki lotsintsekako lotfunyelwe enkantolo ngekulandzela indzima (b) nobe (e) kumele aniketwe litfuba lekwentatsetfo temlomo netemibhalo enkantolo, futsi tetfulo letinjalo kumele tihlolwe kanye netetfulo tesisebenti setekungena.”. 35

Kufakwa kweligama emtsetfweni 13 wanga-2002

2. UMtsetfo loMkhulu uguculwa ngekutsi esikhundleni seligama lelitsi “Inkantolo”, lapho livela khona, kufakwe lelitsi “inkantolo”. 40

Sihloko lesifishane nekucala kusebenta

3. LoMtsetfo ubitwa ngekutsi nguMtsetfo wekuChitjiyelwa kweMtsetfo Wekungena Kulelive, 2025, futsi ucala kusebenta ngelusuku loluncunywe nguMengameli ngesimemetelo *kuGazethi*.

Umtsetfo wekuchitijyelwa kweMtsetfo wekungena kulelive, 2025

UMtsetfo 11 ka-2025

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