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## Refugees Control Order, 1978

### Kings Order in Council 5 of 1978

Legislation as at 1 December 1998

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# Refugees Control Order, 1978

## Kings Order in Council 5 of 1978

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**Commenced on 14 April 1978**

*[This is the version of this document at 1 December 1998.]*

*[Repealed by Refugees Act, 2017 (Act 15 of 2017) on 1 November 2018]*

**A King's Order-in-Council to establish better control of refugees entering Swaziland.**

### 1. Short title

This King's Order-in-Council may be cited as The Refugees Control Order, 1978.

### 2. Interpretation

In this Order, unless the context otherwise requires —

"**authorised**" means authorised by the Minister;

"**authorised officer**" means the Principal Secretary, and includes an authorised police officer, an authorised officer of the Swaziland Prison Service or of the Umbutfo Royal Swaziland Defence Force, a refugee officer, and any public officer for the time being designated by the Minister as an authorised officer;

"**Minister**" means the Minister for Home Affairs;

"**Principal Secretary**" means the Principal Secretary of the Minister for Home Affairs' Office;

"**reception area**" means an area declared as such under section 4;

"**refugee**" means a person belonging to a class of persons to whom a declaration under section 3 applies;

"**refugee officer**" means any person for the time being appointed under section 4(2);

"**refugee settlement**" means a refugee settlement established under section 4.

### 3. Declaration of refugees

- (1) Subject to subsection (2), the Minister may declare any class of persons who are, or prior to their entry into Swaziland were, ordinarily resident outside Swaziland to be refugees for the purposes of this Order.
- (2) A declaration under subsection (1) shall not apply to—
  - (a) a citizen of Swaziland;
  - (b) any person entitled to diplomatic immunity in Swaziland;
  - (c) any member of a class of persons declared by the Minister, to be refugees for the purposes of this Order.
- (3) If any question arises in any proceedings, or with reference to anything done or proposed to be done, under this Order as to whether any person is a refugee or not, or is a refugee of a particular

category or not, the onus of proving that such person is not a refugee or, as the case may be, is not a refugee of a particular category, shall lie upon such person.

#### **4. Reception areas and refugee settlements**

- (1) The Minister may declare any part of Swaziland to be an area for the reception or residence of any refugee or category thereof.
- (2) The Minister may establish in any reception area a refugee settlement for refugees or any category thereof, and may appoint a refugee officer to be in charge of such settlement.

#### **5. Places of entry or departure**

- (1) The Minister may, by order in writing—
  - (a) direct that any refugee entering or leaving Swaziland shall enter or leave by specified routes or at specified places;
  - (b) direct that any refugee moving from one part of Swaziland to another shall move by specified routes.
- (2) Any order made under this section may be subject to such terms and conditions as the Minister may think fit.
- (3) Any refugee who contravenes an order under this section or the terms or conditions thereof shall be guilty of an offence.

#### **6. Registration of refugees and identity cards**

- (1) Every refugee shall, within such period as may be prescribed, present himself for registration under this section in such manner and to such authority as may be prescribed.
- (2) Every refugee shall, upon registration under this section, be issued with an identity card in such form and containing such particulars as may be prescribed, and shall keep such identity card in his possession at all times while in Swaziland.
- (3) The Principal Secretary shall cause registers to be kept for the purposes of this section in such form as he may from time to time determine.
- (4) Any refugee who contravenes any of the provisions of this section shall be guilty of an offence.

#### **7. Restriction on possession of firearms, weapons, etc., by refugees**

- (1) No refugee shall, while in Swaziland, acquire or be in possession of any firearm or ammunition.
- (2) A refugee who brings any firearm or ammunition into Swaziland shall immediately surrender such firearm or ammunition to an authorised officer.
- (3) The Principal Secretary may, by order in writing, direct that any refugee shall, within such time as may be specified in the order, surrender to an authorised officer any weapon, or any instrument or tool so specified which is capable of being used as a weapon and which is in or comes into his possession, unless the possessor thereof has written authority to retain it signed by an authorised officer.
- (4) Any refugee shall be guilty of an offence and liable on conviction to imprisonment for a period of two years if the—
  - (a) contravenes subsection (1); or
  - (b) fails to surrender any firearm, ammunition, weapon, instrument or tool in accordance with this section or any order made hereunder.

- (5) In this section, "firearm" and "ammunition" have the meanings respectively assigned thereto in the Arms and Ammunitions Act, [No. 24 of 1967](#).

## 8. Detention and slaughter of animals

- (1) The Principal Secretary may direct that any animal imported from outside Swaziland by any refugee shall be kept in such place as he may direct or, if it appears to the Principal Secretary necessary or expedient in the interests of the health of persons or animals, that any such imported animal shall be slaughtered or otherwise disposed of.
- (2) If an animal imported by a refugee is sold, or is slaughtered and the meat or carcass thereof sold, in pursuance of a direction under subsection (1), the proceeds of the sale less the expenses of the sale shall be paid to such refugee:

Provided that if in any case it is not reasonably practicable to make such payment, such proceeds shall be paid into a fund which shall be used for the benefit of refugees.

- (3) Any person who obstructs the carrying out of any direction given under this section shall be guilty of an offence.

## 9. Use of vehicles

- (1) No vehicle in which a refugee enters Swaziland, or which is acquired by or comes into the possession of a refugee while in Swaziland, shall be used in Swaziland by such refugee save with the permission in writing of an authorised officer or otherwise than in accordance with the terms of such permission.
- (2) It shall be a condition for the granting of permission under this section for the use of a vehicle that an authorised officer may, for so long as may be necessary for the purpose of providing transport for refugees or of moving any stores or equipment for the use of refugees, take possession of such vehicle at any time and may authorise its use by any person for any of the said purposes.

## 10. Deportation of refugees

- (1) The Minister may at any time order any refugee to return by such means or route as he shall direct to the territory from which he entered Swaziland.
- (2) A court convicting any refugee of an offence under this section may order the deportation of such refugee to the territory from which he entered Swaziland.
- (3) If any person is ordered to return to the territory from which he entered Swaziland or to be deported under subsection (1) or (2) he may be held in custody and deported in accordance with such order.
- (4) No order shall be made under subsection (1) or (2) in respect of a refugee if the Minister or the court, as the case may be, is of the opinion that such refugee may be tried, or detained or restricted or punished without trial, for an offence of a political character after arrival in the territory from which he came or is likely to be subject of physical attack in such territory.
- (5) Any refugee who fails to comply with an order made under subsection (1) shall be guilty of an offence.

## 11. Permits to remain in Swaziland

- (1) No refugee shall remain in Swaziland—
- (a) unless within seven days of his entering Swaziland he is issued with a permit to remain by the Principal Secretary;

- (b) unless he complies with the terms or conditions from time to time annexed to such permit by the Principal Secretary.
- (2) The Principal Secretary shall not refuse a refugee a permit under this section if he has reason to believe that the refusal of a permit will necessitate the return of the refugee to the territory from which he entered Swaziland and that the refugee may be tried, or detained, or restricted or punished without trial, for an offence of a political character after arrival in that territory or is likely to be the subject of physical attack in that territory; but, subject to this subsection, the Principal Secretary may in his discretion, and without assigning any reason refuse to issue a permit.
- (3) If a refugee fails to obtain or is refused a permit in accordance with this section, his presence in Swaziland shall be unlawful.

## 12. Requirement to reside in reception area or refugee settlement

- (1) The Minister may—
  - (a) require any refugee to reside within a reception area or refugee settlement;
  - (b) require any refugee who is within a reception area or refugee settlement to remove to and reside in some other place being a reception area or refugee settlement.
- (2) Any refugee to whom an order made under this section applies shall, unless he is in possession of a permit issued under subsection (3), be guilty of an offence if he—
  - (a) fails to take steps forthwith to comply with such order; or
  - (b) fails to move to or take up residence in a reception area or refugee settlement in accordance with such order with reasonable despatch; or
  - (c) having arrived at a reception area or a refugee settlement in pursuance of such order, leaves or attempts to leave such area or settlement except in pursuance of some other order made under this section.
- (3) The Principal Secretary may issue a permit to any refugee to whom an order made under subsection (1) applies, authorising him—
  - (a) to reside in a reception area elsewhere than in the refugee settlement to which such order refers;
  - (b) to leave a reception area in which he has been required to reside.
- (4) The Principal Secretary may issue a permit under this section subject to such terms and condition as he thinks fit, and, without prejudice to the generality of the foregoing, he may, if he issues a permit under subsection (3)(b), specify the destination to which and the route by which such refugee may proceed.
- (5) Any refugee to whom a permit has been issued under this section who fails to comply with the terms and conditions thereof shall be guilty of an offence.

## 13. Control of refugees' settlement

- (1) The Minister may make rules, and the Principal Secretary may issue directions not inconsistent with such rules, for the control of refugee settlements and, without prejudice to the generality of the foregoing, such rules and directions may make provision in respect of all or any of the following matters:
  - (a) the organisation, safety, discipline and administration of such settlements;
  - (b) the reception, treatment, health and well-being of refugees;
  - (c) the powers of refugee officers in respect of such settlements.

- (2) A refugee officer may give such orders or directions, either orally or in writing, to any refugee as may be necessary or expedient for the following purposes, that is to say—
  - (a) ensure that any refugee settlement is administered in an orderly and efficient manner;
  - (b) ensure the performance of any work or duty necessary for the maintenance of essential services in any refugee settlement or for the general welfare of the refugees therein;
  - (c) ensure that all proper precautions are taken to preserve the health and wellbeing of the refugees therein;
  - (d) preserve orderly conduct and discipline in any refugee settlement.
- (3) Any refugee shall be guilty of an offence if he—
  - (a) without a permit issued in his favour under [section 12](#), leaves or attempts to leave a refugee settlement in which he has been ordered to reside;
  - (b) in a refugee settlement disobeys any rules made by the Minister, any direction of the Principal Secretary or any order or direction of a refugee officer, made or given under this section; or
  - (c) in a refugee settlement conducts himself in a manner prejudicial to good order and discipline.

#### **14. Restrictions relating to refugee settlements**

- (1) No person other than a refugee required to reside or residing in, or a person employed in, a refugee settlement, shall enter or be within such settlement except with the general or special permission of the Minister, the Principal Secretary or the refugee officer.
- (2) No person other than the Principal Secretary or the refugee officer may in a refugee settlement address an assembly or meeting of more than ten refugees, whether or not such meeting is held in a public place.
- (3) Any person who contravenes this section shall be guilty of an offence.

#### **15. Offences and penalties**

- (1) Any refugee who fails to obey any lawful direction or order of the Principal Secretary or a refugee officer or who obstructs an authorised officer in the exercise of his powers under this Order shall be guilty of an offence and liable on conviction to imprisonment for a period of six months.
- (2) Any person who is guilty of an offence against this Order for which no penalty is specifically provided shall be liable on conviction to imprisonment for a period of six months.
- (3) The trial of any person charged with any contravention of this Order shall be held *in camera*, if there is produced to the judicial officer presiding over such trial, a certificate under the hand of the Prime Minister that it is in the interests of national security that such trial shall be so held.

#### **16. Arrest and use of force**

- (1) An authorised officer may arrest without warrant any refugee reasonably suspected by him of having committed or attempted to commit an offence under this Order.
- (2) An authorised officer and any person acting with the authority of an authorised officer may use such force, including the use of firearms, as may be reasonably necessary to compel any refugee to comply with any order or direction made or given under this Order in relation to such refugee.

**17. Protection of officers**

No act or thing done or omitted to be done by any authorised officer or other person shall, if the act or omission was done or omitted *bona fide* while acting in the execution of his duty under this Order, subject him personally to any liability, action, claim or demand whatsoever.

**18. Manner of publishing rules, orders etc.**

- (1) Any rules, orders or directions under this Order may be published in such manner as the authority making them considers appropriate in order to bring them to the notice of the persons to whom they apply or who are affected thereby, and shall not be required to be published in the *Gazette*.
- (2) Any order or direction made or given under this Order which is applied or directed to a particular person shall, if in writing, be served on, or if not in writing be given to, such person personally.