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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 26 September 2016)

ACT

To amend the Immigration Act, 2002, so as to provide for an adequate sanction for foreigners who have overstayed in the Republic beyond the expiry date on their visa; and to provide for matters connected therewith.

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

Amendment of section 32 of Act 13 of 2002, as amended by section 33 of Act 19 of 2004

1. Section 32 of the Immigration Act, 2002 (Act No. 13 of 2002) (hereinafter referred to as "the principal Act"), is hereby amended by the insertion after subsection (1) of the following subsections:

"(1A) Foreigners who are illegal by virtue of having overstayed, as prescribed, do not qualify for a port of entry visa, a visa, admission into the Republic or a permanent residence permit during the prescribed period.

(1B) Upon application, as prescribed, from outside the Republic by the illegal foreigner contemplated in subsection (1A), the Director-General may waive the disqualification contemplated in subsection (1A) where exceptional circumstances, as prescribed, exist.".

Amendment of section 50 of Act 13 of 2002, as amended by sections 46 and 47 of Act 19 of 2004 and section 25 of Act 13 of 2011

2. Section 50 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Any foreigner who leaves the Republic after the expiry of his or her visa shall be dealt with in terms of section **[30(1)(*h*)]** 32(1A).".

Short title and commencement

3. This Act is called the Immigration Amendment Act, 2016, and comes into operation on a date determined by the President by proclamation in the *Gazette*.