

INFORMATION BROCHURE – 12 June 2014

Commencement of the Regulations

- 26 May 2014

Visa Fees

- No change in the cost that the Department of Home Affairs (DHA) charges, which is dependent on the category of visa and the country of application.

Applications in South Africa - VFS and their fees

- All applications in SA must be done at VFS offices at a processing cost of R 1,350.00 per passport – This fee is separate of the DHA Fee;
- All immigration offices within the DHA closed on 2 June 2014;
- VFS offices to open on 18 – 20 June 2014 around the country;
- Applicants must load applications on VFS website, book interview and make payment of applicant fee and VFS fee.
- <http://www.vfsglobal.com/dha/southafrica/>

1st Time Applications

- All 1st time applications must be done at embassy or consulate;

Applications done in SA

- Change of status or extension must be submitted no less than 60 days prior to the expiry date of the visa;
- No person holding a visitor's or medical treatment visa may apply for a change of status to his or her visa while in the Republic, unless exceptional circumstances;
- Exceptional circumstances if on Visitor's visa - is an accompanying spouse or child of a holder of the business or work visa, who wishes to apply for a study or work visa;

Travelling with children

From 1 October 2014 - The new Regulations require the following:-

- All children must have their own passports;
- All children must carry a copy of their unabridged birth certificate (the certificate that shows the parents names);
- If a child is travelling with one parent, the travelling parent must produce an affidavit from the non-travelling parent authorising the child to travel;

- If a child is travelling unaccompanied or with a caretaker (non parent) then both parents must complete the affidavit;

Travelling with Expired Visa's

In terms of Directive 43 of 2010 foreign nationals were allowed to travel without penalty, if the foreign national's visa had expired and there was a pending application for a new visa. Foreign nationals were simply required to carry a receipt for the application.

In terms of Directive 9 of 2014, which repealed the above Directive, foreign nationals are now not allowed to travel with expired visas irrespective of whether the foreign national has a pending application or not.

Foreign nationals travelling with an expired visa will be placed on the prohibited persons list and barred from returning to SA for 1, 2 or 5 years depending on the transgression.

The new Directive is obviously unfair, especially were the Department has taken several months to finalise an application. We expect this directive to be over turned in the near future.

S11(2)

Applicants must apply at the embassy before travelling to SA. Advertised turn around times are 5 – 10 days, however expect delays if the embassy has backlogs.

This visa is used when a foreign national is required in SA for employment related activities over a period of time.

Tourist Visa – 90 Day

The 90 day tourist visa can be used to come to SA for once off meetings. If an employee is required for a day or two and they are visa exempt (i.e. do not need a visa before travelling to SA) use this option.

Under the new Regulations, foreign nationals cannot apply for a different visa in South Africa if they are on a tourist visa. 1st applications must be done at the embassy.

Spouses / Children

Under new Regulations, spouses & children will be granted visas for the same duration as the working visa. (Previously only a maximum of 3 years)

Spouses will be allowed to apply for a change of conditions of their visa status while in SA to a study or working visa.

Study Visa

Under the new Regulations study visas will be issued for the duration of the study. (Previously only a maximum of 3 years)

Intra Company Transfer Work Visa (ICT)

Under old regulations – ICT was available for 2 years, not extendable.

Under new regulations – ICT is available for 4 years, not extendable.

There is no clarity if current ICT holders for 2 years issued under the old Regulations can apply for another ICT for a further 2 years under the new Regulations thereby utilising the full allocation of 4 years under the new Regulations;

My advice would be for the applicants that have ICT's expiring in the next 6 months to prepare an ICT application immediately and submit the application under the new Regulations.

General Work Visa (GWV)

Extremely onerous application under the new Regulations.

Applicants must first attain a letter of endorsement from the Department of Labour.

Preparation time for Department of Labour submission is 1 – 2 months. Department of Labour has advertised that applications will take 6 – 8 weeks to finalise. Having dealt with them previously, applications may take as long as 3 months.

Once the Department of Labour report is finalised the applicant can submit the application at the embassy immediately. All other requirements will be completed while Department of Labour is finalising the endorsement. The embassy will take anything from 2 week to 3 months to finalise the endorsement depending on resources and volume of applications.

Total time to attain GWV could be anything from 5 months to as long as 8 months in a worst case scenario.

Maximum duration of visa is 5 years.

Critical Skills Visa (CSV)

Exceptional Skills and Quota working permits have been replaced by the CSV.

If a foreign national qualifies in terms of the critical skills, they will need:-

- Written confirmation from the professional body, council or board or any relevant government Department: Confirming the skills or qualifications of the applicant; and appropriate post qualification experience.
- If required by law, proof of application for a certificate of registration with the professional body, council or board.

Example of this:

- *Mining Engineer.*
- *Registration with Engineering Council of SA or Southern African Institute of Mining and Metallurgy.*
- *Motivation letter from Engineering Council of SA or Southern African Institute of Mining and Metallurgy or Department of Department of Mineral Resources.*

Maximum duration of visa is 5 years.

Business Visa

Currently ZAR 2,500,000.00 must be invested from outside SA;

The Regulations state business must be considered a desirable (and in the interests of the South African economy). Undesirable business activity will not be approved;

Letter from **Department of Trade and Industry** (DTI) required - will cause undue delays and Within 12 months business owner must confirm 60% of employees SAC or PR holders;

Maximum duration of visa is 3 years.

Life Partner / Marriage

Spouses, whether married or in a common law relationship, will have to prove a two year relationship.

Visa's at the Border (not airports)

Visa exempt nationals will only receive visitors' visa of 7 days if travelling from neighbouring country into South Africa.

Retirement Visa

Must show proof of income of R 37,500.00 per month

Peter Wieselthaler
IMMIGRATION ATTORNEY

THOMSON WILKS INC.

Tel +27 (0) 11 784 8984
Cell +27 (0) 82 927 0192
Fax +27 (0) 865 541 444
Email peter@thomsonwilks.co.za
Website www.thomsonwilks.co.za

23 Impala Road
Chislehurst, Sandton, 2196
P O Box 3242, Parklands, 2121
DoceX 72, Nelson Mandela Square, Sandton