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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF HOME AFFAIRS**NOTICE 602 OF 2016****IMMIGRATION ACT, 2002 (ACT NO. 13 OF 2002)****PUBLICATION OF THE DRAFT FIRST AMENDMENT OF THE IMMIGRATION
REGULATIONS, 2014 MADE UNDER THE IMMIGRATION ACT**

The Department of Home Affairs ("DHA") invites public comments on the draft First Amendment of the Immigration Regulations, 2014.

Written submissions should reach the DHA **on or before 14 October 2016**. Submissions should be addressed to the Chief Director: Legal Services and may be forwarded to the DHA in any of the following manners:

- (a) delivered by hand to the Department of Home Affairs, 230 Johannes Ramokhoase (Proes) Street, Hallmark Building (c/o J Ramokhoase and Thabo Sehume Street), Pretoria, 0001, for **attention** Adv Tsietsi Sebelemetja (Office 1027) ;
- (b) mailed to the DHA at Private Bag X114, Pretoria, 0001;
- (c) faxed to 0865 144 267; or
- (d) e-mailed to Tsietsi.Sebelemetja@dha.gov.za and Zukiswa.Adams@dha.gov.za

Any enquiries should be directed to **Adv Tsietsi Sebelemetja** at (012) 406 4271 or **Ms Zukiswa Adams** at (012) 406 2821.

GOVERNMENT NOTICE
DEPARTMENT OF HOME AFFAIRS

No. R. _____

_____ 2016

IMMIGRATION ACT, 2002

**DRAFT FIRST AMENDMENT OF THE IMMIGRATION REGULATIONS, 2014 MADE
UNDER THE IMMIGRATION ACT**

The Minister of Home Affairs intends, in terms of section 7 of the Immigration Act, 2002 (Act No. 13 of 2002), after consultation with the Immigration Advisory Board, to make the Regulations in the Schedule.

SCHEDULE

Definition

1. In this Schedule “the Regulations” means the Regulations made under the Immigration Act, 2002 (Act No. 13 of 2002), published under Government Notice No. R.413 of 22 May 2014.

Amendment of regulation 1 of the Regulations

2. Regulation 1 of the Regulations is hereby amended by—

(a) the substitution for the following definition of “the Act” of the following definition:

“the Act” means the Immigration Act, 2002 (Act No. 13 of 2002); and

(b) the insertion of the following definition:

“Unabridged birth certificate” means any document or birth record issued by the relevant authority reflecting the full names and surnames, the date of birth of the child and the names and surnames of the parents of such child; and”

Substitution of regulation 3 of the Regulations

3. The following regulation is hereby substituted for regulation 3 of the Regulations:

“Permanent homosexual or heterosexual relationship

3.(1) An applicant for a visa in terms of the Act who asserts in his or her application to be a spouse, as defined in paragraph (b) of the definition of spouse in section 1 of the Act, must prove to the satisfaction of the Director-General that he or she is a spouse to a citizen or permanent residence permit holder in the manner set out in subregulation (2).

(2) An applicant contemplated in subregulation (1) must submit—

(a) a notarial agreement signed by both parties attesting that—

(i) the permanent homosexual or heterosexual relationship has existed for at least two years before the date of application for a relevant visa and that the relationship still exists to the exclusion of any other person; and

(ii) neither of the parties is a spouse in an existing marriage or a permanent homosexual or heterosexual relationship;

(b) an affidavit on Part A of Form 12 illustrated in Annexure A, confirming the continued existence of the relationship;

(c) in the case where such a party was a spouse in a previous marriage, any official documents that prove the dissolution of such marriage either by divorce or the death of the other spouse;

(d) documentation to prove—

(i) the financial support to each other; and

(ii) the extent to which the related responsibilities are shared by the applicant and his or her spouse; and

(e) in the case of a relationship concluded between two foreigners in a foreign country, an official recognition of the relationship issued by the relevant authorities of the country concerned, if available.

(3) Both partners to a homosexual or heterosexual relationship must be interviewed separately, on the same date and time, to determine the authenticity of the existence of their relationship.

(4) An applicant contemplated in subregulation (1) who has been issued with a visa or permanent residence permit must, after a period of two years from the date of issuing of that visa, inform the Director-General whether or not the relationship still exists by

submitting to the Director-General an affidavit on Part B of Form 12 illustrated in Annexure A.

(5) An applicant contemplated in subregulation (1) who has been granted a visa on the basis of the relationship must immediately inform the Director-General when his or her relationship ceases to exist.

(6) The Director-General may, upon receipt of the information contemplated in subregulation (5), withdraw the visa issued on the basis of the existence of a permanent homosexual or heterosexual relationship.

(7) Whenever it appears to the Director-General that a visa was acquired through error, misrepresentation or fraud, he or she shall withdraw the visa and, where applicable, cause criminal charges to be laid against all parties implicated in the misrepresentation or fraud.”.

Amendment of regulation 6 of the Regulations

4. Regulation 6 of the Regulations is hereby amended by the substitution for subregulation (12) of the following subregulation:

“(12)(a) Where a parent or parents, from a visa required country, and who is or are travelling with a child, such parent or parents must, when applying for a visa for the child, submit—

- (i) an unabridged birth certificate of the child;
- (ii) consent in the form of an affidavit from the other parent registered as a parent on the unabridged birth certificate of the child, if he or she is not travelling with the child, authorising him or her to enter into or depart from the Republic with the child he or she is travelling with;
- (iii) a court order granting full parental responsibilities and rights or legal guardianship in respect of the child, if he or she is the parent or legal guardian of the child; or
- (iv) where applicable, a death certificate of the deceased parent registered as a parent of the child on the birth certificate.

(b)(i) Where a parent or parents, from a visa exempted country, who is or are travelling with a child, such parent or parents may be required by an immigration officer to produce the child’s unabridged birth certificate upon admission into or departure from the

Republic and the immigration officer must, in granting such child admission into or departure from the Republic consider—

- (aa) the reasons for the absence of the other parent of the child registered on the unabridged birth certificate, where applicable;
 - (bb) consent in the form of an affidavit from the other parent registered as a parent on the birth certificate of the child authorising him or her to enter into or depart from the Republic with the child he or she is travelling with;
 - (cc) a court order granting full parental responsibilities and rights or legal guardianship in respect of the child, if he or she is the parent or legal guardian of the child; or
 - (dd) where applicable, a death certificate of the other parent registered as a parent of the child on the birth certificate: Provided that the Director-General may, where the parents of the child are both deceased and the child is travelling with a relative or another person related to him or her or his or her parents, approve such a person to enter into or depart from the Republic with such a child.
- (ii) Where an immigration officer requests the production of an unabridged birth certificate of a child or the documentation referred to in subparagraphs (aa) to (dd), and such is not provided, he or she may refuse such child admission into or departure from the Republic.
- (c) Where a person is travelling with a child who is not his or her biological child, he or she must produce—
- (i) a copy of the unabridged birth certificate of the child;
 - (ii) an affidavit from the parents or legal guardian of the child confirming that he or she has permission to travel with the child;
 - (iii) copies of the identity documents or passports of the parents or legal guardian of the child; and
 - (iv) the contact details of the parents or legal guardian of the child,
Provided that the Director-General may, where the parents of the child are both deceased and the child is travelling with a relative or another person related to him or her or his or her parents, approve such a person to enter into or depart from the Republic with such a child.
- (d) Any unaccompanied minor shall produce to the immigration officer—

- (i) proof of consent from one of or both his or her parents or legal guardian, as the case may be, in the form of a letter or affidavit for the child to travel into or depart from the Republic: Provided that in the case where one parent provides proof of consent, that parent must also provide a copy of a court order issued to him or her in terms of which he or she has been granted full parental responsibilities and rights in respect of the child;
- (ii) a letter from the person who is to receive the child in the Republic, containing his or her residential address and contact details in the Republic where the child will be residing;
- (iii) a copy of the identity document or valid passport and visa or permanent residence permit of the person who is to receive the child in the Republic; and
- (iv) the contact details of the parents or legal guardian of the child.”.

Amendment of regulation 11 of the Regulations

5. Regulation 11 of the regulations is hereby amended by the substitution for subregulation (4) of the following subregulation:

“(4) An activity contemplated in section 11(1)(b)(iv) of the Act shall be work conducted for a foreign employer pursuant to a contract which partially requires conducting of certain activities in the Republic and relates to—

- (a) the spouse or dependent child of the holder of a visa issued in terms of section 11, 13, 14, 15, 17, 18, 19, 20 or 22;
- (b) teaching at an international school;
- (c) in respect of films and advertisements produced in South Africa, including, but not limited to, an actor, cameraman, hairstylist, make-up artist or lighting and sound engineer;
- (d) a foreign journalist seconded to the Republic by a foreign news agency;
- (e) a visiting professor or lecturer or an academic researcher;
- (f) an artist who wishes to write, paint or sculpt: Provided that he or she submits a portfolio of his or her previous work;
- (g) a person involved in the entertainment industry, travelling through the Republic to perform;
- (h) a tour leader or host of such a tour;
- (i) a religious leader of a recognised religious organisation or denomination; or

- (j) a foreigner who is required to stay in the Republic in order to testify as a state witness in a criminal court case: Provided that in such a matter, the application shall be initiated by the relevant Deputy Director of Public Prosecutions.”.

Substitution of regulation 14 of the Regulations

6. The following regulation is hereby substituted for regulation 14 of the Regulations:

“Business visa

14.(1) An application for a business visa by a foreigner who intends to establish a business or invest in a business that is not yet established in the Republic, shall be accompanied by—

- (a) a certificate or a factual finding report issued by a chartered accountant registered with the South African Institute of Chartered Accountants, a professional accountant registered with the South African Institute of Professional Accountants or a business accountant registered with the South African Institute for Business Accountants to the effect that—
- (i) at least an amount in cash to be invested in the Republic as determined from time to time by the Minister, after consultation with the Minister of Trade and Industry, by notice in the *Gazette*, is available; or
 - (ii) at least an amount in cash and a capital contribution as determined from time to time by the Minister, after consultation with the Minister of Trade and Industry, by notice in the *Gazette*, is available;
- (b) an undertaking by the applicant that at least 60% of the total staff complement to be employed in the operations of the business shall be South African citizens or permanent residents employed permanently in various positions: Provided that proof of compliance with this undertaking shall be submitted within 12 months of issuance of the visa;
- (c) an undertaking to register with the—
- (i) South African Revenue Service;
 - (ii) Unemployment Insurance Fund;
 - (iii) Compensation Fund for Occupational Injuries and Diseases;
 - (iv) Companies and Intellectual Properties Commission (CIPC), where legally required; and

- (v) relevant professional body, board or council recognised by SAQA in terms of section 13(1)(j) of the National Qualifications Framework Act, where applicable,

Provided that upon registration, all certificates shall be submitted to the Director-General;

- (d) a police clearance certificate; and
- (e) a letter of recommendation from the Department of Trade and Industry regarding—
 - (i) the feasibility of the business; and
 - (ii) the contribution to the national interest of the Republic.

(2) An application for a business visa by a foreigner who has established a business or invested in an existing business in the Republic, shall be accompanied by—

- (a) a certificate or a factual finding report issued by a chartered accountant registered with the South African Institute of Chartered Accountants, a professional accountant registered with the South African Institute of Professional Accountants or a business accountant registered with the South African Institute for Business Accountants to the effect that—
 - (i) at least an amount in cash to be invested or to be invested in the Republic as determined from time to time by the Minister, after consultation with the Minister of Trade and Industry, by notice in the *Gazette*, is available or already invested; or
 - (ii) at least an amount in cash and a capital contribution as determined from time to time by the Minister, after consultation with the Minister of Trade and Industry, by notice in the *Gazette*, is available or already invested;
- (b) proof that at least 60% of the total staff complement employed in the operations of the business are South African citizens or permanent residents employed permanently in various positions;
- (c) proof of registration with the—
 - (i) South African Revenue Service;
 - (ii) Unemployment Insurance Fund;
 - (iii) Compensation Fund for Occupational Injuries and Diseases;
 - (iv) Companies and Intellectual Properties Commission (CIPC), where legally required; and

- (v) relevant professional body, board or council recognised by SAQA in terms of section 13(1)(j) of the National Qualifications Framework Act, where applicable;
 - (d) a police clearance certificate; and
 - (e) a letter of recommendation from the Department of Trade and Industry regarding—
 - (i) the feasibility of the business; and
 - (ii) the contribution to the national interest of the Republic.
- (3) A foreigner who invests or has invested in an existing business shall, in addition to complying with subregulation (2), submit—
- (a) financial statements in respect of the preceding financial year; and
 - (b) proof of investment.
- (4) The applicant must, within 12 months of the visa being issued, submit to the Director-General a letter of confirmation from the Department of Labour that 60% of the staff complement employed in the operations of the business are South African citizens or permanent residents who are employed permanently in various positions.
- (5) A business visa may be issued for a period not exceeding three years at a time.”

Amendment of regulation 18 of the Regulations

7. Regulation 18 of the regulations is hereby amended by the substitution for subregulation (3) of the following subregulation:

- “(3) An application for a general work visa shall be accompanied by—
- (a) a letter issued to the prospective Employer by the Department of Labour to the effect that a certificate has been issued to the Department confirming that—
 - (i) despite a diligent search, the prospective employer has been unable to find a suitable citizen or permanent resident with qualifications or skills and experience equivalent to those of the applicant;
 - (ii) the applicant has qualifications or proven skills and experience in line with the job offer;
 - (iii) the salary and benefits of the applicant are not inferior to the average salary and benefits of citizens or permanent residents occupying similar positions in the Republic; and
 - (iv) the contract of employment stipulating the conditions of employment and signed by both the employer and the applicant is in line with the labour

standards in the Republic and is made conditional upon the general work visa being approved;”.

Amendment of regulation 20 of the Regulations

8. Regulation 20 of the regulations is hereby amended by the substitution for subregulation (1) of the following subregulation:

“(1) An application for a corporate visa shall be made on Form 13 illustrated in Annexure A and accompanied by—

- (a) proof of the need to employ the requested number of foreigners;
- (b) a letter issued to the corporate applicant by the Department of Labour to the effect that a certificate has been issued to the Department confirming—
 - (i) that despite diligent search, the corporate applicant was unable to find suitable citizens or permanent residents to occupy the position available in the corporate entity;
 - (ii) the job description and proposed remuneration in respect of each foreigner;
 - (iii) that the salary and benefits of any foreigner employed by the corporate applicant shall not be inferior to the average salary and benefits of citizens or permanent residents occupying similar positions in the Republic;
- (c) proof of registration of the corporation with the—
 - (i) South African Revenue Service;
 - (ii) Unemployment Insurance Fund;
 - (iii) Compensation Fund for Occupational Injuries and Diseases; and
 - (iv) Companies and Intellectual Properties Commission (CIPC), where legally required;
- (d) an undertaking by the employer to inform the Director-General should any foreign employee not comply with the provisions of the Act or visa conditions or is no longer in the employ of such employer or is employed in a different capacity or role; and
- (e) a written undertaking by the corporate applicant to pay the deportation costs of any foreign employee accepting responsibility for the return costs related to the deportation of the foreign employee, should it be necessary.”.

Substitution of regulation 24 of the Regulations

9. The following regulation is hereby substituted for regulation 24 of the Regulations:

“Residence on other grounds

24.(1) The advertisement contemplated in section 27(a)(i) of the Act shall be an original clipping from the national printed media and shall—

- (a) reflect the full particulars of the relevant newspaper or magazine, as well as the dates on which the advertisement was published;
- (b) stipulate the minimum qualifications and experience required to fill the position;
- (c) clearly define the position offered and the responsibilities to be performed;
- (d) measure at least 60 millimetres by 60 millimetres;
- (e) state the closing date for the application in the advertisement; and
- (f) not be older than four months at the time of application, which period shall be calculated from the closing date for applications.

(2) The permanent residence permit contemplated in section 27(a) of the Act shall be issued on condition that the holder of that permit shall remain employed for a period of five years in the field in respect of which the original offer of employment was made.

(3) The requirement contemplated in section 27(b) of the Act shall be the submission of—

- (a) proof that the applicant falls within the critical skills category in the form of—
 - (i) a certificate from the professional body, council or board recognised by SAQA in terms of section 13(1)(i) of the National Qualifications Framework Act or the relevant Department confirming the skills or qualifications of the applicant; and
 - (ii) if required by law, a certificate of registration with the professional body, council or board recognised by SAQA in terms of section 13(1)(i) of the National Qualifications Framework Act;
- (b) proof of post-qualification experience of at least five years;
- (c) testimonials from previous employers and a comprehensive *curriculum vitae*; and
- (d) a letter of motivation indicating that the critical skills possessed by the applicant will be to the benefit of the South African environment in which the person intends to operate and which relates to the critical skill in question.

(4) An application for a permanent residence permit contemplated in section 27(c) of the Act shall be accompanied by a certificate or a factual finding report issued by a chartered accountant registered with the South African Institute of Chartered Accountants, a professional accountant registered with the South African Institute of Professional Accountants or a business accountant registered with the South African Institute for Business Accountants to the effect that—

- (a) at least an amount in cash as determined from time to time by the Minister, after consultation with the Minister of Trade and Industry, by notice in the *Gazette*, is available; or
- (b) at least an amount in cash and capital contribution as determined by the Minister, after consultation with the Minister of Trade and Industry, by notice in the *Gazette*, is available.

(5) An application for a permanent residence permit contemplated in section 27(c) of the Act by an applicant who intends to establish a business in the Republic shall, in addition to the requirements in subregulation (4), be accompanied by—

- (a) a business plan outlining the feasibility of the business, both in the short and long term;
- (b) an undertaking by the applicant that at least 60% of the total staff complement to be employed in the operations of the business shall be citizens or permanent residents employed permanently in various positions: Provided that proof of compliance with this undertaking shall be submitted within 12 months of issuance of the permanent residence permit;
- (c) an undertaking to register with the South African Revenue Service; and
- (d) proof of registration with the relevant professional body, council or board recognised by SAQA in terms of section 13(1)(i) of the National Qualifications Framework Act, where applicable.

(6) An application for a permanent residence permit contemplated in section 27(c) of the Act by an applicant who has established a business in the Republic shall, in addition to the requirements in subregulation (4), be accompanied by—

- (a) proof that at least 60% citizens or permanent residents are permanently employed in various positions directly in the operations of the business;
- (b) proof of registration with the South African Revenue Service; and

(c) proof of registration with the relevant professional body, council or board recognised by SAQA in terms of section 13(1)(f) of the National Qualifications Framework Act, where applicable.

(7) For the purposes of section 27(c)(i) of the Act, a business in one of the sectors determined from time to time by the Minister by notice in the *Gazette* is a business in the national interest.

(8) A foreigner who invests or has invested in an existing business shall, subject to this regulation, submit certified proof of investment in the business in respect of the preceding financial year.

(9) A foreigner who invests or has invested in an existing business as a partner shall submit—

- (a) certified proof of investment in the business; and
- (b) the partnership agreement.

(10) The requirements contemplated in section 27(d) of the Act shall be—

- (a) the submission of the certification contemplated in section 27(c) of the Refugees Act, 1998 (Act No. 130 of 1998);
- (b) where applicable, the submission of affidavits with regard to aliases used by the applicant and family members; and
- (c) the submission of the information and documentation contemplated in regulation 23(2)(b), (f), (g), (h) and (i): Provided that in the case of documents issued by the country from which he or she fled not being available, a sworn affidavit.

(11) The payment contemplated in section 27(e)(i) of the Act shall be, per month, the amount determined from time to time by the Minister by notice in the *Gazette* and the net worth contemplated in section 27(e)(ii) of the Act shall be a combination of assets realising, per month, the amount determined by the Minister by notice in the *Gazette*.

(12) The net worth contemplated in section 27(f) of the Act shall be an amount determined from time to time by the Minister by notice in the *Gazette* and the amount to be paid to the Director-General shall be an amount determined by the Minister by notice in the *Gazette*, which amount has to be paid upon approval of the application.”

Amendment of forms

10. Annexure A of the Regulations is hereby amended by the substitution for forms 8, 19, 31, and 43 contained in Annexure A to the Regulations.

Short title

11. These Regulations shall be called the First Amendment of the Immigration Regulations, 2014 made under the Immigration Act, 2002.

(DHA-1738) Form 8



**DEPARTMENT OF HOME AFFAIRS
REPUBLIC OF SOUTH AFRICA**

**APPLICATION FOR VISA TO TEMPORARILY SOJOURN IN THE REPUBLIC
[Section 10(2)(c) to (k); Regulation 9(1)]**

CATEGORY OF PERMIT BEING APPLIED FOR		
Visitor's visa	Exchange Visa	
Study Visa (> 3 months)	Business Visa	
Treaty Visa	Work Visa: Critical Skills	
Relative's Visa	Work Visa: General	
Medical Treatment Visa	Work Visa: Intra-company transfer	
Retired Person's Visa	Corporate Worker Certificate	

*Biometric
(Attach Fingerprint Form,
with Photograph)*

FOR OFFICIAL USE ONLY		
Office of application:	BLOK:	Track & Trace Ref No
Date received:	Date forwarded to Head Office:	
Application quality checked by/on:	Date received at Head Office	Remarks:
Passport seen/returned by/on:	Decision and date:	
Fee: Currency and amount		
Fee received by/on:		
Receipt no:		
Conditions of permit / Reason for refusal		

--

1. PERSONAL DETAILS

Title:	<input type="checkbox"/> Mr	<input type="checkbox"/> Ms	<input type="checkbox"/> Other (specify)			
Surname/Family name:				Given names:		
Maiden name:				Stage name:		
Previous/alternative name(s)/aliases, including details:						
Date of birth:						
Year..... Month..... Day.....						
Place of birth:		Town/City:		Country:		
Marital status:	Never married	<input type="checkbox"/>	Separated	<input type="checkbox"/>	Legally recognised spousal relationship	<input type="checkbox"/>
	Married	<input type="checkbox"/>	Widowed	<input type="checkbox"/>		
	Divorced	<input type="checkbox"/>	Customary union	<input type="checkbox"/>		
If separated state:						
Whether divorce proceedings have been instituted and when final decree is expected						
.....						
.....						
If divorced, provide:						
Date of divorce:						
Divorce order must be attached.						
If party to a spousal relationship with a citizen or permanent resident, a certified copy of the marriage certificate or a notarial agreement, as well as the requisite affidavit, must be attached.						

2. CITIZENSHIP DETAILS

Present country of citizenship:	
If acquired other than by birth, date and conditions under which acquired:	
Do you hold any other citizenship? Yes <input type="checkbox"/> No <input type="checkbox"/>	
If so, of which country? (provide details).....	

3. PASSPORT DETAILS

Passport number:	Country of issue:
Date of issue:...../...../.....	Expiry date:...../...../.....
If you have any other document required by your government, provide details: Type of document:..... Number:..... Expiry date:...../...../.....	

4. ADDRESSES

Residential address:	Postal address:
Postal code.....	Postal code.....
Country of usual residence if other than country of origin or above address: 	
Telephone No.: Work: (incl. area code) Home: (incl. area code)	
Cellphone number (if available):	
Email address (if available):	

Other addresses where you have lived during the last ten years other than your current address:		
Address:	Period:	Country:

Do you hold the right of re-entry into your country of origin and/or country of residence if this differs? Yes No

If no, specify period and present status.....

Have you ever applied for asylum or refugee status in SA or any other country?
 Yes No If yes, specify the country.....

Contact person:					
Relationship: Friend		Business Associate		Relative	Other
Name:					
Address:					
.....					
Telephone No.: Work: (incl. area code) Home: (incl. area code)					
Cellphone number (if available):					
Email address (if available):					

Details regarding relatives and/or friends in the Republic, if any.			
Name	Address	Relationship	Identity No

5. INTENTIONS/PROPOSED DURATION OF STAY IN THE REPUBLIC

Proposed date and place of departure for the Republic:	/ /	
Anticipated date and place of arrival in the Republic:	/ /	
Travelling by: Air	Road	Rail
Sea	Carrier	
What is your intended duration of stay in the Republic:		
Days/weeks/months/or	Years	Intended date of departure / /

Outline your proposed activities whilst in the Republic:
.....
.....

6. MAINTENANCE/DEPORTATION

State what funds you have available to maintain yourself during your stay in the Republic and whether you have a return ticket or other arrangements made for maintenance and return passage:

Available funds (foreign currency): Type:..... Amount:
South African Rand equivalent: (attach bank statement as proof of funds held).
Valid return or onward ticket no:
Expiry date: / /
Other:
.....

7. PARTICULARS OF ANY FAMILY/DEPENDANTS ACCOMPANYING YOU (*attach page if space is not enough*):

Full names	Date of birth	Relationship	Passport No.	Expiry date	Nationality	Occupation

If your spouse and/or other dependants are not accompanying you, do they intend to enter the country at a later stage?

Yes On (date)

No Details/reason(s):

Have you ever been refused entry into or deported from the Republic? If so, please provide details:

.....

8. SECURITY/HEALTH QUESTIONNAIRE

Have you or any of your dependants accompanying you ever been convicted of any crime in any country? Yes No

Is a criminal/civil case pending against you or any of your dependants accompanying you in any country? Yes No

Are you or any of your dependants suffering from tuberculosis, any other infectious or contagious disease or any mental or physical deficiency? Yes No

Are you an unrehabilitated insolvent? Yes No

Have you ever been judicially declared incompetent? Yes No

Are you a member of or adherent to an association or organisation advocating the practice of social violence, or racial hatred? Yes No

Have you ever been declared undesirable from the Republic?
<input type="checkbox"/> Yes <input type="checkbox"/> No
Furnish full particulars if the reply to any of these questions is in the affirmative:
.....
.....
.....

9. ANY ADDITIONAL INFORMATION YOU WISH TO BRING TO THE DEPARTMENT'S ATTENTION:

.....
.....
.....

10. DECLARATION BY APPLICANT

I acknowledge that I understand the contents and implications of this application and solemnly declare that the above particulars given by me as well as all particulars in the attached supporting documentation are true and correct.	
_____	_____
Signature of applicant	Date

THE FOLLOWING ORIGINAL SUPPORTING DOCUMENTS MUST ACCOMPANY THE APPLICATION

In respect of all temporary residence visa applications, except medical treatment visas:

	Attached	
	Yes	No
Valid passport which expires in no less than 30 days after expiry of the intended date of departure from the Republic		
A yellow fever vaccination certificate, where applicable.		
A medical report.		
A radiological report.		
Marriage certificate or in the case of a foreign spousal relationship, proof of official recognition thereof issued by the authorities of the foreign country of the applicant (where applicable).		
The affidavit where a spousal relationship to a South African citizen or resident is applicable, as well as documentation proving cohabitation and the extent to which the related financial responsibilities are shared by the parties and setting out the particulars of children in the spousal relationship.		
Divorce decree, where applicable.		
Court order granting full or specific parental responsibilities and rights, where applicable.		
Death certificate, in respect of late spouse, where applicable.		
Written consent from both parents and full parental responsibilities and rights parent, where applicable.		
Proof of adoption where applicable.		
Legal separation order, where applicable.		
Police clearance certificates in respect of applicants 18 years and older, in respect of all countries where person resided one year or longer since having attained the age of 18.		

Additional supporting documents in respect of a study visa:

	Attached	
	Yes	No
An official letter confirming provisional acceptance or acceptance at that learning institution and the duration of the course.		
An undertaking by the Registrar or Principal of the learning institution to- <ul style="list-style-type: none"> (i) provide proof of registration as contemplated in the relevant legislation within 60 days of registration; or (ii) In the event of failure to register by the closing date, provide the Director-General with a notification of failure to register within 7 days of the closing date of registration; (iii) Within 30 days, notify the Director-General that the applicant is no longer registered with such institution; and (iv) Within 30 days, notify the Director-General when the applicant has completed his or her studies or requires to extend such period of study 		
In the case of a learner under the age of 18 years- <ul style="list-style-type: none"> (i) an unabridged birth certificate; (ii) a valid passport; (iii) proof of physical address and contact number of the adult person residing in the Republic, who is acting or has accepted to act as such learner's guardian, including a confirmatory letter from that guardian; and (iv) proof of consent for the intended stay from both parents, or where applicable, from the parent or legal guardian who has been issued with a court order granting full or specific parental responsibilities and rights or legal guardianship of the learner. 		
In the case of a foreign state accepting responsibility for the applicant in terms of a bilateral agreement, a written undertaking from such foreign state to pay for the departure of the applicant.		
Proof of medical cover renewed annually for the period of study with a medical scheme registered in terms of the Medical Schemes Act.		

	Attached	
	Yes	No
An official letter confirming provisional acceptance or acceptance at that learning institution and the duration of the course.		
An undertaking by the Registrar or Principal of the learning institution to- <ul style="list-style-type: none"> (i) provide proof of registration as contemplated in the relevant legislation within 60 days of registration; or (ii) In the event of failure to register by the closing date, provide the Director-General with a notification of failure to register within 7 days of the closing date of registration; (iii) Within 30 days, notify the Director-General that the applicant is no longer registered with such institution; and (iv) Within 30 days, notify the Director-General when the applicant has completed his or her studies or requires to extend such period of study 		
In the case of a learner under the age of 18 years- <ul style="list-style-type: none"> (i) an unabridged birth certificate; (ii) a valid passport; (iii) proof of physical address and contact number of the adult person residing in the Republic, who is acting or has accepted to act as such learner's guardian, including a confirmatory letter from that guardian; and (iv) proof of consent for the intended stay from both parents, or where applicable, from the parent or legal guardian who has been issued with a court order granting full or specific parental responsibilities and rights or legal guardianship of the learner. 		
an undertaking by the parents or legal guardian that the learner will have medical cover for the full duration of the period of study		
Proof of sufficient financial means available to the learner whilst resident in the Republic.		

Additional supporting documents in respect of a treaty visa:

	Attached	
	Yes	No
A letter from the relevant organ of state which is party to the treaty attesting to— (a) the nature of the programme; (b) participation of the foreigner in the specified programme; (c) the type of activities the foreigner is expected to perform and the duration thereof. (d) Accommodation of the foreigner. (e) Any other relevant details pertaining to the foreigner's stay in the Republic.		
A written undertaking by the sending or receiving organ of state accepting responsibility for the costs related to the deportation of the applicant and his or her dependent family members, should it become necessary.		

Additional supporting documents in support of a business visa

In respect of a business visa by a foreigner who intends to establish a business or invest in a business that is not yet established in the Republic

	Attached	
	Yes	No

	Attached	
	Yes	No
<p>A certificate issued by a chartered accountant registered with the South African Institute of Chartered Accountants or a professional accountant registered with the South African Institute of Professional Accountants to the effect that:—</p> <p>(a) at least an amount in cash to be invested in the Republic as determined from time to time by the Minister, after consultation with the Minister of Trade and Industry, by notice in the <i>Gazette</i>, is available; or</p> <p>(b) at at least an amount in cash and a capital contribution as determined from time to time by the Minister, after consultation with the Minister of Trade and Industry, by notice in the <i>Gazette</i> is available.</p> <p>(c) Undertaking by the applicant that at least 60% of the total staff compliment to be employed in the operations of the business shall be South African citizens or permanent residents employed permanently in various positions: Provided that proof of compliance with this undertaking shall be submitted within 12 months of issuance of the visa.</p>		
<p>An undertaking to register with the—</p> <p>(a) South African Revenue Service;</p> <p>(b) Unemployment Insurance Fund;</p> <p>(c) Compensation Fund for Occupational Injuries and Diseases;</p> <p>(d) Companies and Intellectual Properties Commission (CPIC); where legally required, and</p> <p>(e) Relevant professional body, board or council recognised by SAQA in terms of section 13(1)(i) of the National Qualifications Framework Act where applicable: Provided that upon registration, all certificates shall be submitted to the Director-General</p>		
<p>A letter of recommendation from the Department of Trade and Industry regarding—</p> <p>(a) The feasibility of the business; and</p> <p>(b) The contribution to the national interest of the Republic</p>		

**Additional supporting documents in respect of a business visa
In respect of a business visa by a foreigner who has established a business or
invested in an existing business in the Republic**

	Attached	
	Yes	No
<p>A certificate issued by a chartered accountant registered with the South African Institute of Chartered Accountants or a professional accountant registered with the South African Institute of Professional Accountants to the effect that:</p> <p>(a) at least an amount in cash to be invested in the Republic as determined from time to time by the Minister, after consultation with the Minister of Trade and Industry, by notice in the <i>Gazette</i>, is available or already invested; or;</p> <p>(b) at least an amount in cash and a capital contribution as determined from time to time by the Minister, after consultation with the Minister of Trade and Industry, by notice in the <i>Gazette</i>, is available or already invested;</p> <p>(c) proof that at least 60% of the total staff compliment employed in the operations of the business are South African citizens or permanent residents employed permanently in various positions.</p>		
<p>Proof of registration with the—</p> <p>(a) South African Revenue Service;</p> <p>(b) Unemployment Insurance Fund;</p> <p>(c) Compensation Fund for Occupational Injuries and Diseases;</p> <p>(d) Companies and Intellectual Properties Commission (CPIC), where legally required; and</p> <p>(e) relevant professional body, board or council recognised by SAQA in terms of section 13(1)(i) of the National Qualifications Framework Act, where applicable.</p>		
<p>A letter of recommendation from the Department of Trade and Industry regarding—</p> <p>(a) The feasibility of the business; and</p> <p>(b) The contribution to the national interest of the Republic.</p>		

	Attached	
	Yes	No
A foreigner who invests or has invested in an existing business shall, in addition, submit- (a) Financial statement in respect of the preceding financial year; and (b) Proof of investment		
The applicant must, within 12 months of the visa being issued, submit to the Director-General a letter of confirmation from the Department of Labour, , that 60% of the staff compliment employed in the operations of the business are South African citizens or permanent residents who are employed permanently in various positions.		

Additional supporting documents in respect of a medical treatment visa:

	Attached	
	Yes	No
A letter from the applicant's registered medical practitioner or medical institution within the Republic, confirming— (a) That space is available at the medical institution; (b) The estimated costs of the treatment; (c) Whether or not the disease or ailment is treatable or curable; (d) The treatment schedule; and (e) The period of intended treatment in the Republic.		
The details of, and confirmation by, the person or institution responsible for the medical expenses and hospital fees: Provided that in a case where the applicant's medical scheme or employer is not liable for expenses incurred, proof of financial means to cover medical costs.		
The particulars of the persons accompanying the applicant		
A valid return air flight ticket, where applicable		
Proof of sufficient financial means or provision for the costs indirectly related to the treatment.		

Additional supporting documents in respect of a relative's visa:

	Attached	
	Yes	No
Proof of kinship, within the second step, between the applicant and the citizen or permanent resident in the form of— (a) An unabridged birth certificate; and (b) Where necessary, paternity test results.		
The financial assurance contemplated in section 18(1) of the Act shall be an amount, per person per month, as determined from time to time by the Minister by notice in the Gazette, to be proven by means of a current salary advice or a certified bank statement not older than three months at the time of application: Provided that the financial assurance shall not be required where the South African citizen or permanent resident is a dependent child.		
Police clearance		

Additional supporting documents in respect of a general work visa:

	Attached	
	Yes	No
A written undertaking by the employer accepting responsibility for the costs related to the deportation of the applicant and his or her dependent family members, should it become necessary.		
A written undertaking by the employer to ensure that the passport of his or her employee is valid at all times for the duration of his or her employment		
A certificate by the Department of Labour confirming that— (a) despite diligent search, the prospective employer has been unable to find a suitable citizen or permanent resident with qualifications or skills and experience equivalent to those of the applicant; (b) The applicant has qualifications or proven skills and experience in line with the job offer; (c) The salary and benefits of the applicant are not inferior to the average salary and benefits of citizens or employees occupying similar positions in the Republic; (d) A contract of employment stipulating the conditions of employment and signed by both the employer and the applicant in line with the labour standards in the Republic and is made conditional upon the general work visa being approved; (e) Proof of qualifications evaluated by SAQA and translated by a sworn translator into one of the official languages of the Republic; and (f) Full particulars of the employer, including, where applicable, proof of registration of the business with the Commission on Intellectual Property and Companies (CIPC).		
An undertaking by the employer to inform the Director-General should the applicant not comply with the provisions of the Act, or conditions of the visa.		
An undertaking by the employer to inform the Director-General upon the employee no longer being in the employ of such employer or when he or she is employed in a different capacity or role.		

Additional supporting documents in respect of a critical skills work visa:

	Attached	
	Yes	No
A written undertaking by the employer accepting responsibility for the costs related to the deportation of the applicant and his or her dependent family members, should it become necessary.		
A written undertaking by the employer to ensure that the passport of his or her employee is valid at all times for the duration of his or her employment		
A confirmation, in writing, from the professional body, council or board recognised by SAQA in terms of section 13(1)(f) of the National Qualifications Framework Act, , 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 recognised by SAQA in terms of section 13(1)(i) of the National Qualifications Framework Act.		
Proof of evaluation of the foreign qualification by SAQA and translated by a sworn translator into one of the official languages of the Republic.		

Additional supporting documents in respect of an intra-company transfer work visa:

	Attached	
	Yes	No
A written undertaking by the employer accepting responsibility for the costs related to the deportation of the applicant and his or her dependent family members, should it become necessary		
A written undertaking by the employer to ensure that the passport of his or her employee is valid at all times for the duration of his or her employment		
The foreigner's contract of employment with the company abroad valid for a period of not less than six months.		
Letter from the company abroad confirming that the applicant shall be transferred to a branch, subsidiary or an affiliate of that company in the Republic.		

	Attached	
	Yes	No
A letter from the branch, subsidiary or an affiliate in the Republic confirming the transfer of the foreigner and specifying the occupation and capacity in which the foreigner shall be employed.		
An undertaking from the employer that— (a) the foreigner shall only be employed in the specific position for which the visa has been issued; (b) the foreigner will, at all times, comply with the provisions of the Act and conditions of his or her visa and undertakes to immediately notify the Director-General if the employee refuses to comply with the provisions of the Act or conditions of the visa; and (c) A plan is developed for the transfer of skills to a South African citizen or permanent		
An undertaking from the branch, subsidiary or an affiliate in the Republic to reimburse the Department any costs incurred in relation to the deportation of the holder of an intra-company transfer work visa and any of his or her family members		

Additional supporting documents in respect of a corporate worker certificate:

	Attached	
	Yes	No
An application for a corporate worker certificate shall be accompanied by-		
(a) a valid passport of the applicant;		
(b) biometrics of the applicant;		
(c) the certificate contemplated in subregulation (8)(b);		
(d) a valid employment contract;		
(e) a written undertaking by the corporate applicant to ensure that the foreigner departs from the Republic upon termination of his or her contract of employment or accepting responsibility for the return or costs related to the deportation of the foreigner should it become necessary;		
(f) the documentation contemplated in regulation 9(1)(b), (c) and (f);		
(g) proof of qualifications evaluated by SAQA, and translated by a sworn translator into one of the official languages of the Republic, or skills and experience in line with the job offer; and		

(h) a certificate of registration with the professional body, council or board recognised by SAQA in terms of section 13(1)(i) of the National Qualifications Framework Act.		
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Additional supporting documents in respect of a retired person visa:

	Attached	
	Yes	No
The minimum monthly payment to a foreigner from a pension fund or an irrevocable retirement annuity or a net worth or a combination of assets realising the amount determined from time to time by the Minister by notice in the <i>Gazette</i> .		

Additional supporting documents in respect of an exchange visa:

In the case of a learning institution in the Republic in conjunction with a foreign learning institution or an organ of a foreign state organising or administering the exchange programme:

	Attached	
	Yes	No
Proof of a valid return air ticket or written undertaking by the organ of state, learning institution or employer accepting responsibility for the return or deportation costs of the applicant, as the case may be		
Proof of medical cover for the duration of the exchange period with a medical scheme registered in terms of the Medical Schemes Act, 1998 (Act No 131 of 1998)		
A letter from the Department of Basic Education, or Higher Education and Training, or the learning institution in the Republic confirming that it is responsible for organising or administering the existence of the programme, outlining the activities, terms and conditions and duration thereof and accepting full responsibility for the student whilst he or she is in the Republic.		
A letter from the foreign state institution or learning institution of the foreign state confirming the particulars of the applicant, the applicant's enrolment with a learning institution abroad, and the date on which the programme shall commence.		

Additional supporting documents in respect of an exchange visa:

In the case of a programme of cultural, economic or social exchange, organised or administered by an organ of state or a learning institution, in conjunction with a learning institution or a foreign state institution:

	Attached	
	Yes	No
Proof of a valid return air ticket or written undertaking by the organ of state, learning institution or employer accepting responsibility for the return or deportation costs of the applicant, as the case may be.		

(DHA—46) Form 19



**DEPARTMENT OF HOME AFFAIRS
REPUBLIC OF SOUTH AFRICA**

**DECLARATION OF FOREIGNER AS UNDESIRABLE PERSON
[Section 7(1)(g) read with section 30(1); Regulations 27(2) and 39(1)]**

To:

Passport No.:

In terms of section 30(1) of the Act, you are hereby declared an undesirable person in the Republic due to the following reason(s):

- *(a) You are or are likely to become a public charge;
- *(b) You have been identified as such by the Minister;
- *(c) You have judicially been declared incompetent;
- *(d) You are an unrehabilitated insolvent;
- *(e) You have been ordered to depart in terms of the Act;
- *(f) You are a fugitive from justice;
- *(g) You have previous criminal convictions without the option of a fine for conduct which would be an offence in the Republic; or
- *(h) You have overstayed by _____ days, at a time.

If you disagree with the aforesaid declaration, you may, in terms of section 8(4) of the Act, make written representations to the Director-General at Overstayappeals@dha.gov.za within 10 working days of receipt of this notice to review this declaration.

Alternatively, you may apply to the Minister at Overstayappeals@dha.gov.za to waive any of the grounds of undesirability in terms of section 30(2) of the Act if you are able to show good cause.

.....
Director-General **Place** **Date**

Place:

IMMIGRATION OFFICER'S PARTICULARS

Name and Surname:

Appointment number:

Rank/position.....

Office:..... Province:.....

SUPERVISOR'S PARTICULARS

Name and Surname:

Rank/position.....

Contact No.: Tel :

ACKNOWLEDGEMENT OF RECEIPT

I acknowledge receipt of the original of this notice.

I *wish/do not wish to make representations within 10 working days from receipt of this notice to the Director-General in terms of section 8(4) of the Act to review the declaration.

I understand that I am entitled to make representations to the Minister showing good cause for the Minister to waive the grounds of undesirability in terms of section 30(2) of the Act.

.....
Signature of recipient of this notice Date

Place:



.....
Signature of witness Date

***Delete whichever is not applicable**

CERTIFICATE BY INTERPRETER

I, (*name(s) and surname*) of
..... (**business/residential address*) and
telephone number and cell phone number hereby confirm
that I have mastered (*state language*) and that I have
explained to (*name(s) and surname of foreigner*) the contents of this
notice in the said language and that I am satisfied that the said foreigner fully understands it.

.....
Signature of interpreter

.....
Place

.....
Date



DEPARTMENT OF HOME AFFAIRS
REPUBLIC OF SOUTH AFRICA

NOTICE TO A FOREIGNER OF THE INTENTION TO APPLY TO COURT FOR THE EXTENSION
OF HIS/HER DETENTION

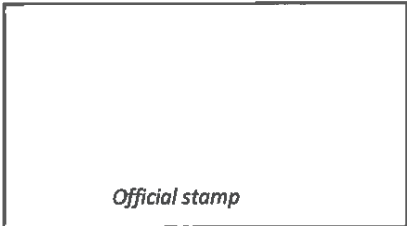
[Section 7(1)(g) read with section 34(1)(d); Regulation 33(4)(a)]

To: (name and surname of detainee) detained
at..... (name of detention facility).

You are hereby notified that in view of the fact that your detention pending the execution of the
warrant for your deportation to (destination) issued on
...../...../..... (date) is likely to exceed 30 calendar days on/...../..... (date) for the
reasons mentioned in the affidavit on the reverse side of this notice, I am, in terms of section
34(1)(d) of the Act, submitting the matter for consideration to the Magistrate at
..... (place) on or before/...../..... (date).

You are entitled to make a written representation to a magistrate of the court who will rule on your
extended detention and you are requested to provide me with such representations on or before
..... (date). If you require assistance, you may
approach the head of the institution where you are being detained.

.....
Signature of immigration officer



Official stamp

IMMIGRATION OFFICER'S PARTICULARS

Name and Surname:

Appointment number:

Rank/position.....

Office:..... Province:.....

SUPERVISOR'S PARTICULARS

Name and Surname:

Rank/position.....

Contact No.: Tel:

CERTIFICATE BY INTERPRETER

I, (name and surname) of
..... (*business/residential address)
hereby confirm that I have mastered (state language)
and that I have explained to(name and surname of detainee) the
contents of this notice in the said language and that I am satisfied that the said foreigner fully
understands it.

.....
Signature of interpreter **Place** **Date**

***Delete which is not applicable**

REVERSE SIDE OF FORM 31

AFFIDAVIT

I (name and surname of deponent)

*state herewith under oath/solemnly declare that—

- (a) I am a duly appointed immigration officer stationed at (place);
- (b) I have ordered the detention of (name and surname of detainee) because the warrant for his or her removal from the Republic issued by me on/...../.....(date) could not be executed immediately due to.....
..... (provide reasons);
- (c) the detention of the said detainee was considered reasonable and necessary, as
.....
.....;
- (d) it is necessary that the said detainee be detained for a further period of
because.....

I append hereto certified copies of the following documentation as proof of my endeavours to expedite the deportation of the said detainee:

- (a)
- (b)
- (c)

Signed at on this day of20.....

.....
Signature of immigration officer **Appointment number**

Thus signed and *sworn/solemnly affirmed before me on this day of 20.....

***Delete which is not applicable**



CERTIFICATE OF OATH/AFFIRMATION

I, _____ (*name and surname of Commissioner/designation*)
_____, hereby certify that before administering the
prescribed *oath/solemn declaration, I put the following questions to the deponent and noted
*his/her reply in his/her presence:

QUESTIONS**ANSWER**

- | | |
|---|----------|
| (a) Do you know and understand the contents of the above declaration? | Yes / No |
| (b) Have you any objection to taking the prescribed oath? | Yes / No |
| (c) Do you regard the prescribed oath as binding on your conscience? | Yes / No |

The deponent has acknowledged that he/she knows and understands the contents of the
declaration; this declaration was duly *sworn to/solemnly affirmed before me and the deponent's
signature was appended thereon in my presence.

Date: _____ Signed: _____

Place: _____ Address: _____

(DHA-1747) Form 43



**DEPARTMENT OF HOME AFFAIRS
REPUBLIC OF SOUTH AFRICA**

**NOTICE OF ADMINISTRATIVE FINE INCURRED FOR INCORRECT CERTIFICATION
[Section 7(1)(g) read with section 50(2); Regulation 39(2)]**

To: (*name and surname of chartered accountant,
professional accountant or business accountant*).

You are hereby informed that in terms of section 50(2) of the Immigration Act, 13 of 2002, you have incurred a fine to the amount of R7000.00 for negligently producing an incorrect certification in respect of

You are hereby required to pay the fine **within** seven days of the date of this notice. Should you fail to pay the said amount within the said period, you shall be liable to prosecution in terms of the provisions of section 49(16) of the Act.

.....

For Director-General

.....

Date

.....

Place:

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065