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# EMPLOYMENT ALERT

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ISSUE

## BREAKING NEWS

### IMMIGRATION REFORM AND ECONOMIC DEVELOPMENT - ARE THEY TWO SIDES OF THE SAME COIN?

On Monday, 25 September 2018, the Minister of Home Affairs (the Minister), Mr Malusi Gigaba, announced a number of amendments to immigration legislation that will be implemented in the coming months.

# IMMIGRATION REFORM AND ECONOMIC DEVELOPMENT - ARE THEY TWO SIDES OF THE SAME COIN?

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**On Monday, 25 September 2018, the Minister of Home Affairs (the Minister), Mr Malusi Gigaba, announced a number of amendments to immigration legislation that will be implemented in the coming months.**

These reforms are aimed at promoting foreign investment, encouraging the migration of critically skilled labour into South Africa and increasing tourism. Ultimately, the immigration reform announced by the Minister is aimed at boosting economic growth and counteracting many of the unintended consequences of the 2014 Amendments to the Immigration Act of 2002, which, in turn, particularly impacted negatively on tourism. We highlight some of the most salient aspects of the amendments below.

#### **Travel with minors**

In terms of the new amendments, minors who are foreign nationals will not be required to prove the consent of both parents to travel in and out of South Africa. Foreign national minors will not be denied entry if documentation proving consent of both parents is not present but will still be required to prove parental consent if requested. It is important to note that the requirement of consent from both parents will not be waived for South African minors travelling abroad.

#### **Visa Waivers**

The new amendments seek to waive pre-authorized visa requirements for persons from certain countries. Along with the majority of SADC countries, nationals from countries such as Egypt, Saudi Arabia and Cuba will not be required to have

applied for a visa prior to travel to South Africa. A visitor's visa may be granted to such nationals upon arrival.

#### **Simplification of visa requirements and border management**

As of October 2018, the visa requirements for countries including, but not limited to, China and India will be simplified by allowing for the issuance of five-year multiple entry visas and the processing of fingerprints and other biometric information upon arrival in South Africa.

The physical movement of persons in and out of South Africa will also be simplified through biometric control systems and the establishment of an enhanced Border Management Authority, which will be tasked with managing the entry and exit of persons at South Africa's borders.

#### **E-Gates**

The introduction of E-Gates will allow for returning South African citizens and certain categories of travellers to be processed electronically as opposed to processing via the services of an immigration official at border control. This move will be in line with international standards which have already been implemented in certain European countries. This "self-service" system will drastically reduce the delay currently experienced in processing persons entering South Africa.

# IMMIGRATION REFORM AND ECONOMIC DEVELOPMENT - ARE THEY TWO SIDES OF THE SAME COIN?

CONTINUED

*The DHA will have to work closely with various sectors such as the industry, law enforcement and the technology sectors to ensure the successful implementation of the amendments.*



## Revision of Critical Skills List


In order to apply for a Critical Skills visa as provided for in terms of s19(4) of the Immigration Act, the skills held by the foreign national must be included in the critical skills list. It is projected that a revised critical skills list will be published in April 2019, as the Department of Home Affairs (DHA) is in the process of consulting with various stakeholders in business, academia and government regarding skills shortages within the country. The last publication in this regard was in 2014.

In addition to the revision of the critical skills list, foreign nationals who are graduates of South African universities may be given the opportunity to apply for Permanent Residence Permits or Critical Skills visas – if their skills are listed in the revised critical skills list. This is a progressive step taken by the DHA to ensure the retention of persons with critical skills in South Africa.

## Conclusion

The amendments envisioned are progressive and if implemented successfully may indeed boost trade, investment and retention of a critically skilled workforce. It must be noted that in order for these amendments to be successfully implemented, immigration officials will have to undergo thorough training on the projected amendments. More importantly, the DHA will have to work closely with various sectors such as the tourism industry, law enforcement and the technology sectors to ensure the successful implementation of the amendments. Many of the amendments are projected to be implemented within the next year and we look forward to the seeing the DHA fulfil the above mandate.

*Michael Yeates and Adjekai Adjei*



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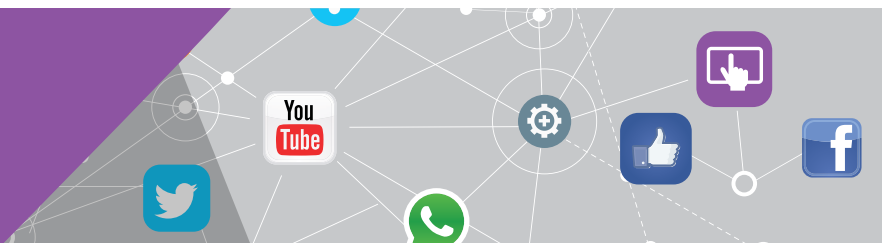
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