

EMPLOYMENT ALERT

ADVANCE BUSINESS TRAVEL AUTHORISATION REQUIRED FOR VISA-EXEMPT NATIONALS

South Africa's Department of Home Affairs (DHA) has implemented a new programme whereby all visa-exempt nationals must request advance travel authorisation for business purposes prior to entry. Visa-exempt nationals intending to enter South Africa purely for holiday or tourism purposes may continue to apply for visitor visas on arrival.

What's changed?

South Africa has two visitor visa programmes: holiday/tourism visa (s11(1)) and the business visitor visa (s11(2)), which bestows the visitor with authority to conduct certain work related activities. Until recently, nationals of countries that enjoyed visa-exempt status could apply for a business visitor visa on arrival (VOA).

On 12 March 2012, the DHA announced the suspension of VOA privileges for visa-exempt business travellers, for example Australian, British, Canadian, European Economic Area, United States of America and Swiss nationals, and that these travellers must submit an electronic request to the DHA at least seven days prior to departure. Confirmed authorisation must be received by the traveller prior to entering South Africa.

Visa nationals for example Chinese and Indian nationals, continue to be required to submit their business visa applications to a South African consular post having jurisdiction over their place of legal residence.

[Note: Please be advised that the VOA privilege remains in place for visa-exempt nationals entering South Africa for holiday or tourism purposes. It is anticipated that accompanying family members who are VOA nationals may continue to enter under s11(1) tourist status.]

For a list of countries that the DHA considers as visa-exempt, please go to the following website:

www.home-affairs.gov.za

Select "Immigration Services" and then select "Non-Exempt Countries".

The DHA's requirement for advance approval for business entry is considered a unique shift. Given the sudden nature of this announcement, the DHA does not have a dedicated web portal for submitting online applications or requests. Business visitors must forward evidence of their reasons for entry and intended duration of stay to this dedicated email address: section11@dha.gov.za

While the DHA does not strictly define all allowable business activities, business visitors cannot engage in any formal employment relationship with a South African host company, for example being paid directly by a South African company or having direct reporting duties to South African management. Given recent reports of visa-exempt nationals allegedly overstaying their duration of stay and engaging in an outright employment relationship, the DHA intends to review online travel requests and more closely monitor the nature of intended activities and duration of stay in South Africa as a business visitor.

As this is a newly-announced programme, final requirements have yet to be confirmed. However, it is assumed that applicants will be required to submit scanned documentation similar to those of a traditional business visitor visa application for example copy of valid passport identification page, letter of invitation from the South African host company, letter of support from the applicant's home company, round-trip airline itinerary.

While visa-exempt accompanying family members are expected to enter under the VOA privilege, it is recommended that host and home company letters also include the names of family members accompanying the business traveller.

The DHA has not yet announced how business travel authorisation will be granted. However, it is expected that business travellers will receive either an email attaching a formal entry authorisation document or an email simply confirming the date of entry and duration of stay. In any case, business travellers should print their travel authorisation and present this along with their valid passports to a South African admitting immigration officer.

continued

Action items for employers

Presently, the business visitor programme is the only electronic entry request for South Africa. All other entry applications must be filed with a South African consular post, prior to departure.

The estimated turnaround time for approval by the DHA will depend on the volume of online applications being made at any given time. Better estimates as to processing times have yet to be determined. Therefore, companies are advised to work with their immigration suppliers to assist business travellers submit their online applications at least two weeks prior to departure.

As finalised application requirements and protocols have not yet been announced, business travellers should exercise flexibility and patience in receiving travel authorisation and anticipating unforeseen changes or delays when departing or entering South Africa.

As the DHA is more closely monitoring entry and duration of stay, companies and business travellers should be aware that travel authorisation may be granted only for single entry. In addition, the duration of stay may be linked to the proposed dates of stay listed on the travel itinerary.

Please be advised that requests for multiple-entry travel may be questioned and, depending on the nature of requests received by the DHA, the DHA may limit future business travel to a maximum period of 90 cumulative days within a given 12 month period.

This news alert was provided in coordination with our international global migration service provider Pro Link Global.

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